

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 1282 - L.D. 1737

**An Act Regarding the Interception of Oral or Wire Communications of
Residents of State Correctional Facilities and Jails**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 15 MRSA §709, sub-§1-B is enacted to read:

1-B. Administration of juvenile criminal justice. "Administration of juvenile criminal justice" has the same meaning as in section 3308, subsection 7, paragraph A, subparagraph (2).

Sec. 2. 15 MRSA §709, sub-§4-A, as amended by PL 1997, c. 361, §1, is further amended to read:

4-A. Investigative officer. "Investigative officer" means an employee of the Department of Corrections designated by the Commissioner of Corrections as having the authority to conduct investigations of ~~offenses~~ crimes or juvenile crimes relating to the security or orderly management of a facility administered by the department and engage in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice.

Sec. 3. 15 MRSA §709, sub-§4-B, as enacted by PL 1997, c. 361, §2, is amended to read:

4-B. Jail investigative officer. "~~County jail~~ Jail investigative officer" means an employee of a ~~county~~ jail designated by the ~~county~~ jail administrator as having the authority to conduct investigations of ~~offenses~~ crimes relating to the security or orderly management of the ~~county~~ jail and engage in any other activity that is related to the administration of criminal justice.

Sec. 4. 15 MRSA §712, sub-§2, as amended by PL 2009, c. 93, §1, is further amended to read:

2. Investigative officers. It is not a violation of this chapter for an investigative officer, as defined in this chapter, or for an employee of the Department of Corrections acting at the direction of an investigative officer, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is

a necessary incident related to the administration of criminal justice or the administration of juvenile criminal justice, if:

- A. Either the sender or receiver of that communication is a person residing in an adult or juvenile correctional facility administered by the Department of Corrections; and
- B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:
 - (1) Providing the resident with a written notification statement;
 - (2) Posting written notification next to every telephone at the facility that is subject to monitoring; and
 - (3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call.

This subsection does not authorize any interference with the attorney-client privilege.

Sec. 5. 15 MRSA §712, sub-§3, as enacted by PL 1997, c. 361, §4, is amended to read:

3. Jail investigative officer. It is not a violation of this chapter for a ~~county~~ jail investigative officer, as defined in this chapter, or for a ~~county~~ jail employee acting at the direction of a ~~county~~ jail investigative officer to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is a necessary incident related to the administration of criminal justice if:

- A. Either the sender or the receiver of that communication is a person residing in an adult section of the ~~county~~ jail; and
- B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:
 - (1) Providing the resident with a written notification statement;
 - (2) Posting written notification next to every telephone at the jail that is subject to monitoring; and
 - (3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call.

This subsection does not authorize any interference with the attorney-client privilege.

Sec. 6. 15 MRSA §712, sub-§4 is enacted to read:

4. Disclosure to another state agency. It is not a violation of this chapter for the contents of an interception of any oral communication or wire communication that has been legally obtained pursuant to subsection 2 or 3 to be disclosed to a state agency if related to the statutory functions of that agency.

Sec. 7. 15 MRSA §713, as amended by PL 1997, c. 361, §5, is repealed and the following enacted in its place:

§713. Evidence

The contents of an interception are not admissible in court, except that:

1. Contents obtained under the laws of another jurisdiction. The contents of an interception of any oral communication or wire communication that has been legally obtained under the laws of another jurisdiction in which the interception occurred are admissible in the courts of this State, subject to the Maine Rules of Evidence; and

2. Contents obtained under this chapter. The contents of an interception of any oral communication or wire communication that has been legally obtained pursuant to section 712, subsection 2 or 3 are admissible in the courts of this State, subject to the Maine Rules of Evidence, if related to the administration of criminal justice or the administration of juvenile criminal justice or the statutory functions of a state agency.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor