



130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

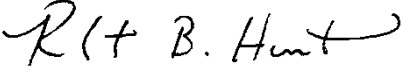
No. 1585

H.P. 1174

House of Representatives, April 27, 2021

**An Act To Increase Privacy and Security by Prohibiting the Use of
Facial Surveillance by Certain Government Employees and Officials**

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative LOOKNER of Portland.
Cosponsored by Representatives: EVANGELOS of Friendship, HARNETT of Gardiner,
MORALES of South Portland, O'NEIL of Saco, PLUECKER of Warren, TALBOT ROSS of
Portland, WARREN of Hallowell, Senator: MAXMIN of Lincoln.

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

2 **Sec. 1. 25 MRSA Pt. 14** is enacted to read:

3 **PART 14**

4 **SURVEILLANCE**

5 **CHAPTER 701**

6 **FACIAL SURVEILLANCE**

7 **§6001. Facial surveillance**

8 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the
9 following terms have the following meanings.

10 A. "Facial surveillance" means an automated or semi-automated process that assists in
11 identifying or verifying an individual, or in capturing information about an individual,
12 based on the physical characteristics of an individual's face.

13 B. "Facial surveillance system" means any computer software or application that
14 performs facial surveillance.

15 C. "Public employee" means a person employed by the State, a county, a municipality
16 or any entity identified in statute as a public instrumentality.

17 D. "Public official" means a person elected or appointed to a public office that is part
18 of the State, a county, a municipality or any entity identified in statute as a public
19 instrumentality.

20 **2. Public employee or public official use of facial surveillance.** The following
21 provisions govern the use of facial surveillance by a public employee or public official.

22 A. A public employee or public official may not:

23 (1) Obtain, retain, possess, access or use a facial surveillance system or
24 information derived from a facial surveillance system;

25 (2) Enter into an agreement with a 3rd party for the purpose of obtaining, retaining,
26 possessing, accessing or using, by or on behalf of a public employee or public
27 official, a facial surveillance system; or

28 (3) Issue a permit or enter into any other agreement that authorizes a 3rd party to
29 obtain, retain, possess, access or use a facial surveillance system or information
30 derived from a facial surveillance system.

31 B. Nothing in paragraph A prohibits a public employee or public official from:

32 (1) Using evidence relating to an investigation of a specific crime that may have
33 been generated from a facial surveillance system;

34 (2) Obtaining or possessing an electronic device, such as a cell phone or computer,
35 for evidentiary purposes or an electronic device, such as a cell phone or tablet, that
36 performs facial surveillance for the sole purpose of user authentication;

1 (3) Using facial recognition on an electronic device, such as a cell phone or tablet,
2 owned by a public employee or public official for the sole purpose of user
3 authentication;

4 (4) Using social media or communications software or applications for
5 communicating with the public as long as such use does not include the affirmative
6 use of facial surveillance;

7 (5) Using automated redaction software as long as such software does not have
8 the capability of performing facial surveillance; and

9 (6) Complying with the National Child Search Assistance Act of 1990, 34 United
10 States Code, Sections 41307 and 41308 (2021).

11 **3. Enforcement.** The following provisions govern enforcement.

12 A. Facial surveillance data collected or derived in violation of this section must be
13 considered unlawfully obtained and must be deleted upon discovery, subject to
14 applicable law.

15 B. Data collected or derived from any use of facial surveillance in violation of this
16 section and evidence derived therefrom may not be received in evidence in any
17 proceeding in or before any department, officer, agency, regulatory body, legislative
18 committee or authority subject to the jurisdiction of the State.

19 C. A violation of this section constitutes an injury, and a person may institute
20 proceedings for injunctive relief, declaratory relief or writ of mandate in any court of
21 competent jurisdiction to enforce this section. An action instituted under this paragraph
22 must be brought against the respective public employee or public official necessary to
23 effectuate compliance with this section and any other governmental agency with
24 possession, custody or control of data subject to this section.

25 D. A violation of this section by a public employee or public official must result in
26 consequences that may include retraining, suspension or termination, subject to due
27 process requirements and provisions of a collective bargaining agreement.

28 E. Nothing in this section may be construed to limit any individual's rights under state
29 or federal law.

30 **SUMMARY**

31 This bill prohibits the use of facial surveillance by public employees and public
32 officials subject to certain exceptions.