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Date: (Filing No. S-)

JUDICIARY

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 157, L.D. 415, Bill, “An Act To Require a Warrant To Obtain the Location Information of a Cell Phone or Other Electronic Device”

Amend the bill in section 1 in §643 in the first paragraph in the last line (page 2, line 17 in L.D.) by inserting after the following: "entity." the following: "The government's notification obligation applies only if the government entity is able to identify the owner or user."

Amend the bill in section 1 in §643 in subsection 1 in the 4th line (page 2, line 21 in L.D.) by inserting after the following: "information" the following: "or, if the government entity is unable to identify the owner or user in time to meet this requirement, within 3 days of identifying the owner or user"

Amend the bill in section 1 in §643 in subsection 2 in the first and 2nd lines (page 2, lines 34 and 35 in L.D.) by striking out the following: "or section 645"

Amend the bill in section 1 in §643 in subsection 2 in the 3rd line (page 2, line 36 in L.D.) by striking out the following: "90" and inserting the following: "180"

Amend the bill in section 1 in §643 in subsection 3 in the 2nd line (page 3, line 4 in L.D.) by striking out the following: "or section 645"

Amend the bill in section 1 in §643 in subsection 3 in the 5th line (page 3, line 7 in L.D.) by striking out the following: "90" and inserting the following: "180"

Amend the bill in section 1 in §643 in subsection 4 in the 2nd line (page 3, line 11 in L.D.) by striking out the following: "for up to an additional 90 days"

Amend the bill in section 1 by striking out all of §§645 and 646.

Amend the bill in section 1 in §647 by striking out all of subsection 1 (page 5, lines 12 to 15 in L.D.)

Amend the bill in section 1 in §647 in subsection 3 in the first line (page 5, line 22 in L.D.) by striking out the following: "2" and inserting the following: "1"

COMMITTEE AMENDMENT

1 Amend the bill in section 1 in §647 by renumbering the subsections to read
2 consecutively.

3 Amend the bill in section 1 in subchapter 10 by renumbering the sections to read
4 consecutively.

5 Amend the bill by inserting after section 1 the following:

6 **Sec. 2. Appropriations and allocations.** The following appropriations and
7 allocations are made.

8 **ATTORNEY GENERAL, DEPARTMENT OF THE**

9 **Administration - Attorney General 0310**

10 Initiative: Provides funds for 2 Research Assistant positions and related costs to manage
11 the notification provisions of the Maine Revised Statutes, Title 16, chapter 3, subchapter
12 10.

| | | | |
|----|-------------------------------|------------------|------------------|
| 13 | GENERAL FUND | 2013-14 | 2014-15 |
| 14 | POSITIONS - LEGISLATIVE COUNT | 2.000 | 2.000 |
| 15 | Personal Services | \$92,542 | \$128,851 |
| 16 | All Other | \$7,801 | \$5,068 |
| 17 | | | |
| 18 | GENERAL FUND TOTAL | <u>\$100,343</u> | <u>\$133,919</u> |
| 19 | | | |

20 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
21 section number to read consecutively.

22 **SUMMARY**

23 This amendment is the minority report of the Joint Standing Committee on Judiciary.

24 This amendment clarifies that a government entity that obtains the location
25 information of a cellular telephone or other electronic device without a valid warrant has
26 an obligation to notify the owner or user about obtaining the location information only if
27 the government entity is able to identify the owner or user. Once the government entity
28 identifies the owner or user, the government entity must notify the owner or user within 3
29 days.

30 The bill allows a government entity, when applying for a warrant, to request a delay
31 of not more than 90 days in notifying the owner or user. This amendment extends the
32 delay period to up to 180 days.

33 This amendment deletes from the bill the authorization for the Attorney General to
34 designate an investigative or law enforcement officer to obtain location information
35 without a warrant if there is an imminent threat of death or serious physical injury or a
36 threat to national security. It also deletes from the bill the reporting requirements
37 imposed on judges who issue or deny warrants.

38 This amendment deletes from the bill the prohibition on the use of evidence obtained
39 in violation of the provisions of the bill, instead relying on Fourth Amendment

1 jurisprudence as it develops through case law to provide for the exclusion of evidence
2 that is improperly obtained.

3 This amendment also adds an appropriations and allocations section to the bill.

4 **FISCAL NOTE REQUIRED**

5 **(See attached)**