

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 354

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H. P. 298

House of Representatives, February 9, 1977

On Motion of Mr. Curran of South Portland referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Perkins of Blue Hill.

Cosponsor: Mrs. Boudreau of Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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AN ACT Concerning the Administration of the Office of the  
Chief Medical Examiner.

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

Sec. 1. 22 MRSA § 3022, as last amended by PL 1975, c. 771, § 219, is further amended by adding at the end the following new paragraph to read:

The Chief Medical Examiner is authorized to select one or more of the medical examiners to serve as deputy chief medical examiners. In the event of his temporary absence, the Chief Medical Examiner, or if he is unavailable, the Attorney General, may designate one of the deputy chief medical examiners to serve as Acting Chief Medical Examiner. The Acting Chief Medical Examiner shall have all of the powers and responsibilities of the Chief Medical Examiner.

Sec. 2. 22 MRSA § 3024, as last amended by PL 1975, c. 771, § 220, is repealed and the following enacted in its place:

§ 3024. Salaries; fees; expenses

The salary of the Chief Medical Examiner of the State of Maine shall be set by the Governor. Other medical examiners shall be paid a fee of \$30 for an inspection and view and shall receive travel expenses to be calculated at the state mileage rate.

The fees for autopsies performed by pathologists, at the request of a medical examiner or the Chief Medical Examiner, shall be set by the Chief

Medical Examiner at a level which shall provide reasonable payment for necessary costs and a reasonable fee in light of prevailing rates for the services of a pathologist in Maine.

The Chief Medical Examiner, using his discretion, may in an unusual circumstance, to be determined by him, prescribe a special fee for the service of a medical examiner or for any consultant service which he deems necessary.

The Chief Medical Examiner, using his discretion, may authorize any other expenses necessary to carry out his duties.

All compensation and expenses authorized by this chapter shall be paid from the funds of the State appropriated by the Legislature for this purpose.

Sec. 3. 22 MRSA § 3030, as last amended by PL 1973, c. 567, § 20, is repealed as follows:

§ 3030. ~~Victims of crime~~

~~The Chief Medical Examiner may, upon request of the district attorney, the Attorney General or a law enforcement officer, direct a medical examiner to make such medical examinations of victims of crimes of violence as he may deem appropriate~~

Sec. 4. 22 MRSA § 3033 is enacted to read:

§ 3033. Limitation on liability of medical examiners and pathologists

Notwithstanding any other provision of law, no medical examiner shall be held liable for damages for any injury or damage which results from the exercise and discharge of any of his official duties, unless it can be shown that such injury or damage resulted from gross negligence on the part of the medical examiner. Notwithstanding any other provision of law, no pathologist, performing an autopsy at the request of a medical examiner or the Chief Medical Examiner, shall be held liable for damages for any injury or damage which results from the performance of the autopsy, unless it can be shown that such injury or damage resulted from the gross negligence of the pathologist.

Sec. 5. 34 MRSA § 1, next to the last ¶ is amended to read:

~~In the case of a sudden~~ When the death of any patient or inmate in any institution under the control of the department ~~under circumstances of reasonable suspicion is not clearly the result of natural causes~~, an examination and inquest shall be held as in other cases, and the superintendent or department shall cause a medical examiner to be immediately notified for that purpose.

#### STATEMENT OF FACT

The purpose of this bill is to clarify certain aspects of the administration of the Office of the Chief Medical Examiner and to limit the civil liability of medical examiners and pathologists.