

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1317

S.P. 437

In Senate, April 22, 1987

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator BRANNIGAN of Cumberland.
Cosponsored by Representative PARADIS of Augusta,
Representative COTE of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Modify Certain Sections of the
2 Medical Examiner Act to Control Public
3 Dissemination of Information Placed on
4 the Death Certificate by the Medical
5 Examiner in Cases under Investigation
6 by the Attorney General's Office.
7

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

10 Sec. 1. 22 MRSA §2842, sub-§3, as amended by PL
11 1985, c. 611, §2, is further amended to read:

12 3. Medical certificate by medical examiner. When
13 a death occurs under circumstances which make it a
14 medical examiner case as defined in section 3025, or
15 when inquiry as to the cause of death is required by
16 law, the medical examiner shall complete and sign the

1 medical certification within 24 hours of the time he
2 is notified of the death, unless the remains must be
3 held longer before release to complete studies or in-
4 vestigation.

5 The medical examiner shall be responsible for the
6 identity of the deceased and the time, date, place,
7 cause, manner and circumstances of death on the death
8 certificate. Entries may be left "pending" if fur-
9 ther study is needed; or, at the specific direction
10 of the Attorney General relative to cases under in-
11 vestigation by his office, entries as to place,
12 cause, manner and circumstances of death shall be
13 left "withheld" until such time as the Attorney Gen-
14 eral, in his sole discretion, determines that any
15 criminal investigation and prosecution will not be
16 harmed by public disclosure of such information.
17 Notwithstanding section 2706, subsection 4, unless
18 directed otherwise by the Attorney General as speci-
19 fied in this subsection, this information for which
20 the medical examiner is responsible may be made
21 available to the general public by the Office of the
22 Chief Medical Examiner.

23 Sec. 2. 22 MRSA §3022, as repealed and replaced
24 by PL 1985, c. 611, §4 and as amended by PL 1985, c.
25 785, Pt. B, §90, is repealed and the following en-
26 acted to read:

27 §3022. Office of Chief Medical Examiner

28 1. Appointment and qualifications of the Chief
29 Medical Examiner. There is created, in the Depart-
30 ment of the Attorney General, the Office of Chief
31 Medical Examiner for the State. The Chief Medical
32 Examiner shall be appointed by the Governor for a
33 term of 7 years and until his successor is appointed
34 and qualified. The Chief Medical Examiner shall pos-
35 sess a degree of doctor of medicine or doctor of os-
36 teopathy, be licensed to practice in the State and be
37 expert in the specialty of forensic pathology. Ex-
38 pertise in the specialty of forensic pathology may be
39 established either by certification in forensic pa-
40 thology by the American Board of Pathology or the
41 American Osteopathic Board of Pathology or by suc-
42 cessful completion of an examination to test exper-
43 tise in forensic pathology designed for the State by

1 acknowledged experts in the field selected by the
2 Governor. Any vacancy in the Office of Chief Medical
3 Examiner shall be filled by appointment by the Gover-
4 nor for a full term of 7 years. The Chief Medical
5 Examiner may hire, subject to the Civil Service Law,
6 necessary office and laboratory personnel to carry
7 out the proper functioning of his office.

8 2. Appointment and qualifications of the Deputy
9 Chief Medical Examiner. The Chief Medical Examiner
10 may select one or more of the medical examiners to
11 serve as deputy chief medical examiners. The Deputy
12 Chief Medical Examiner shall serve at the pleasure of
13 the Chief Medical Examiner and, if salaried, shall be
14 unclassified. In the event of his temporary absence,
15 the Chief Medical Examiner or, if he is unavailable,
16 the Attorney General may designate one of the deputy
17 chief medical examiners to serve as acting Chief Med-
18 ical Examiner. The acting Chief Medical Examiner
19 shall have all of the powers and responsibilities of
20 the Chief Medical Examiner.

21 3. Certification and completion of reports of
22 deaths. The Office of Chief Medical Examiner shall
23 be responsible for certification and completion of
24 reports of deaths identified as medical examiner
25 cases by section 3025. This shall be accomplished by
26 examination of bodies and useful objects and by in-
27 vestigation and inquiry into the circumstances sur-
28 rounding the deaths. The Office of Chief Medical Ex-
29 aminer may compile and preserve records and data re-
30 lating to criminal prosecution, public health, public
31 safety and vital statistics, as these relate to his
32 responsibilities.

33 4. Judgments of the medical examiners. Judg-
34 ments of the medical examiners as to the identity of
35 the deceased and the cause, manner, date, time and
36 place of death shall be made with reasonable care
37 based on a preponderance of the evidence.

38 5. Custodian of records. The Chief Medical Ex-
39 aminer shall be the custodian of the records of the
40 Office of Chief Medical Examiner. Copies of those
41 records not declared confidential in subsection 8
42 shall be available upon written request.

1 6. Certificate as evidence. Notwithstanding any
2 other provision of law or rule of evidence, the cer-
3 tificate of the Chief Medical Examiner, under seal of
4 the State, shall be received in any court as prima
5 facie evidence of any fact stated in the certificate
6 or documents attached to the certificate. The cer-
7 tificate under the seal shall be presumed to be that
8 of the Chief Medical Examiner. A facsimile of the
9 signature of the Chief Medical Examiner imprinted on
10 any certificate described in this subsection shall
11 have the same validity as his written signature and
12 shall be admissible in court.

13 7. Medical records provided. In any medical ex-
14 aminer case, upon oral or written request of the med-
15 ical examiner, any individual, partnership, associa-
16 tion, corporation, institution or governmental entity
17 which has rendered treatment pertaining to the medi-
18 cal examiner case shall as soon as practicable pro-
19 vide the medical examiner with all medical records
20 pertaining to the person and the treatment provided.

21 8. Certain information confidential. When in
22 the custody of a medical examiner, contents of sui-
23 cidé notes, reproductions of medical reports and re-
24 ports compiled by the police incorporated into the
25 file, communications with the Department of the At-
26 torney General, death certificates and any amendments
27 made to the certificates, except for the information
28 for which the medical examiner is responsible, as
29 listed in section 2842, subsection 3, and not ordered
30 "withheld" by the Attorney General, and reports per-
31 taining to cases under investigation by his office
32 shall be confidential.

33 9. Release of medical examiner's reports.
34 State, county and local agencies and institutions,
35 public and private, in possession of reports of the
36 Office of Chief Medical Examiner shall not release
37 them, but shall refer all the requests to the Office
38 of Chief Medical Examiner. The Office of Chief Medi-
39 cal Examiner need not release medical examiner re-
40 ports to the public until a next of kin has been con-
41 tacted.

42 10. Cooperation with research requests. The Of-
43 ice of Chief Medical Examiner shall cooperate with

1 research requests by supplying abstracted data and
2 copies of reports to interested persons and agencies
3 consistent with the available resources of the of-
4 fice.

5 STATEMENT OF FACT

6 Frequently in the investigation and prosecution
7 of criminal homicides, unique knowledge of the place,
8 cause, manner and circumstances of a victim's death,
9 is disclosed to a 3rd person by a suspect. This dis-
10 closure often constitutes highly probative evidence
11 as to the suspect's identity. Under present law, the
12 Attorney General is not authorized to order withheld,
13 one or more of these entries for which the medical
14 examiner is responsible and to preclude dissemination
15 of such information to the public by the Chief Medi-
16 cal Examiner. The magnitude of the harm caused to
17 the Attorney General's ability to both identify and
18 prosecute murderers by public disclosure is suffi-
19 ciently real to merit the authority in this bill ex-
20 pressly accorded to the Attorney General.

21 Additionally, 2 inconsistent versions of the
22 Maine Revised Statutes, Title 22, section 3022,
23 emerged from the 112th Legislature, Public Law 1985,
24 chapter 611, section 4, and chapter 785, Part B, sec-
25 tion 90. This bill eliminates the conflicting
26 versions.

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