

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1262

H.P. 905

House of Representatives, April 20, 1989

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CLARK of Brunswick.

Cosponsored by Representative NADEAU of Saco and Senator BALDACCI of Penobscot.

STATE OF MAINE

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

An Act to Revise the Medical Examiner Act.



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

3 **Sec. 1. 22 MRSA §3022, sub-§8, as repealed and replaced by PL**
5 **1987, c. 329, §2, is amended to read:**

7 **8. Certain information confidential.** When in the custody
9 of a medical examiner, ~~contents of suicide notes,~~ reproductions
11 of medical reports and reports compiled by the police
13 incorporated into the file, communications with the Department of
15 the Attorney General, death certificates and any amendments made
to the certificates, except for the information for which the
medical examiner is responsible, as listed in section 2842,
subsection 3, and not ordered "withheld" by the Attorney General,
and reports pertaining to cases under investigation by his office
shall be confidential.

17 **Sec. 2. 22 MRSA §3022, sub-§11 is enacted to read:**

19 **11. Written or recorded material expressing suicidal**
21 **intent. Written or otherwise recorded communications that**
23 **express or are evidence of suicidal intent held by the Office of**
the Chief Medical Examiner pursuant to section 3028, subsections
4 and 5, are not subject to public access.

25 **Sec. 3. 22 MRSA §3024, first ¶, as amended by PL 1983, c. 534,**
27 **§1, is further amended to read:**

29 The salary of the Chief Medical Examiner of the State of
31 Maine shall be set by the Governor. Other nonsalaried medical
33 examiners shall, upon the submission of their completed ~~report~~
reports to the Chief Medical Examiner, be paid a fee of \$45 ~~\$50~~
35 for an inspection and view and shall receive travel expenses to
37 be calculated at the mileage rate currently paid to state
employees at the time of the travel pursuant to Title 5, section
39 8. ~~An additional fee of \$20 may be authorized by the Chief~~
The Chief Medical Examiner may authorize an additional fee of \$50 to
41 nonsalaried medical examiners for visits to scenes of death other
than hospitals and up to \$20 for the procurement, labeling and
transporting of specimens.

43 **Sec. 4. 22 MRSA §3024, 2nd ¶, as repealed and replaced by PL**
45 **1977, c. 59, §2, is amended to read:**

47 The fees for autopsies performed by pathologists, at the
49 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
51 pathologist in Maine the State.

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Sec. 5. 22 MRSA §3024, last ¶, as enacted by PL 1981, c. 242, §3, is amended to read:

If the Chief Medical Examiner or employees of ~~his office~~ the Office of the Chief Medical Examiner, at their discretion, provide expert opinion or testimony relating to Maine State medical examiner cases on behalf of private litigants, the Chief Medical Examiner may, ~~at his discretion~~, set a reasonable fee for these services, preparation leading to them and expenses incurred in providing them. All fees, charges or other receipts shall be credited to the General Fund. Medical examiners and consultants who serve the State on a fee per case basis are excluded from this paragraph and may make private arrangements for these services.

Sec. 6. 22 MRSA §3025, sub-§4, as amended by PL 1987, c. 296, §3, is further amended to read:

4. Questionable cases and cases which may constitute exceptions. All questionable cases shall be reported. Acceptance of any questionable case is to be determined by the Chief Medical Examiner unless acceptance is specifically ordered by the Attorney General or district attorney having jurisdiction.

Deaths due to the consequences of long-term alcohol use, long-term exposure to environmental or occupational toxins or long-term exposure to carcinogens shall be reported by any public official believing that public safety or welfare requires further study or investigation, but need not be accepted.

Sudden natural deaths ~~in the~~ of elderly persons who have not had previous specific symptoms or who were not under treatment by a physician for the specific natural cause that is considered to be the cause of death shall be reported to the Office of the Chief Medical Examiner. Those cases may be referred back to the attending physician by the Chief Medical Examiner for certification of the death, even though the attending physician has not treated the patient for the specific natural disease ~~that he will enter as his~~ to be entered as a diagnosis.

Sec. 7. 22 MRSA §3028, sub-§8, as enacted by PL 1979, c. 538, §8, is amended to read:

8. Autopsy. If, in any medical examiner case, in the opinion of the medical examiner, the Chief Medical Examiner, the district attorney for the district in which the death has occurred or the Attorney General, it is advisable and in the public interest that an autopsy be made, the autopsy shall be conducted by the Chief Medical Examiner or by ~~such pathologist a~~ physician as that the medical examiner, with the approval of the

1 Chief Medical Examiner may designate. The medical examiner, with
3 the approval of the Chief Medical Examiner, may elect to perform
4 the autopsy. That The person that performs the autopsy shall
5 make a complete report of the findings of the autopsy and shall
6 transmit the report to the medical examiner and the Office of the
7 Chief Medical Examiner, retaining one copy thereof.

9 Sec. 8. 22 MRSA §3034 is enacted to read:

11 **§3034. Missing persons**

13 1. Files; information. The Office of the Chief Medical
14 Examiner shall maintain files on missing persons sufficient to
15 enable the Chief Medical Examiner to identify those individuals
16 who may later be found. These files may include such material as
17 medical and dental records and specimens, details of personal
18 property and physical appearance, samples of hair, fingerprints
19 and specimens that may be useful for identification. The Chief
20 Medical Examiner may require hospitals, physicians, dentists and
21 other medical institutions and practitioners to provide
22 information, samples and specimens. Hospitals, physicians,
23 dentists, institutions and practitioners who provide this
24 information shall not be criminally or civilly responsible for
25 the provision of that requested material or information or for
26 otherwise cooperating with the Office of the Chief Medical
27 Examiner.

29 2. Confidentiality; disclosure. All information and
30 materials gathered and retained pursuant to this section shall be
31 used solely for the purposes of identification of deceased
32 persons and persons found alive who are unable to identify
33 themselves because of mental or physical impairment. The files
34 and materials shall be confidential, except that compiled data
35 which does not identify specific individuals may be disclosed to
36 the public. Upon the identification of a deceased person, those
37 records and materials used for the identification may become part
38 of the records of the Office of the Chief Medical Examiner and
39 may then be subject to public disclosure as pertinent law
40 provides.

41 3. Reporting of missing persons. Missing persons may be
42 reported directly to the Office of the Chief Medical Examiner by
43 interested parties. Law enforcement agencies or other public
44 agencies that receive reports of missing persons, or that gain
45 knowledge of missing persons, shall report that information to
46 the Office of the Chief Medical Examiner. Law enforcement
47 agencies shall report all attempts to locate missing persons to
48 the Office of Chief Medical Examiner. All absences without leave
49 by individuals from state institutions must also be reported to
50 the Office of the Chief Medical Examiner when there exists a
51 reasonable possibility of harm to that individual.

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3 All state and law enforcement agencies, and public and
5 private custodial institutions shall cooperate with the office in
7 reporting, investigating, clearing and gathering further
9 information and materials on missing persons.

11 STATEMENT OF FACT

13 This bill revises the Medical Examiner Act. Sections 1 and
15 2 of the bill provide that the contents of written or recorded
17 conversations evidencing suicidal intent will not be accessible
19 by the general public. When, however, it would not compromise
the investigation, the Chief Medical Examiner would be allowed to
share the content of the communication with the family, the
person addressed in the communication or the decedent's personal
representative.

21 Section 3 raises the basic nonsalaried medical examiner fee
23 by \$5 and raises the fee for scene visits by \$30. It further
25 authorizes for nonsalaried medical examiners a fee of up to \$20
relative to the taking, labeling, packaging and shipping of
specimens.

27 Section 6 revises existing law to conform with the
29 prevailing practice that long-term exposures to occupational and
31 environmental toxins and beverage alcohol are matters for private
33 handling between survivors and the victim's physician. This
change does not exclude involvement of the medical examiner if
the interests of the public must be served.

35 Section 7 provides to medical examiners more freedom to use
37 their own discretion in selecting autopsy pathologists. This
section allows the Chief Medical Examiner to give general
39 approval to the selection, without having to personally designate
a specific pathologist in every case.

41 Section 8 provides for the reporting of missing persons and
43 the accumulation and preservation of material, records and
45 information which might be needed to identify the individual. It
provides for confidentiality of the records and materials and for
cooperation from government, medical and other private
individuals and entities.