

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1312

H.P. 915

House of Representatives, March 27, 1991

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Reference to the Committee on Legal Affairs suggested and ordered printed.

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

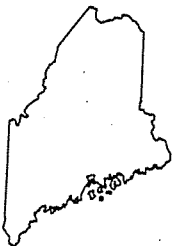
EDWIN H. PERT, Clerk

Presented by Representative ANTHONY of South Portland.
Cosponsored by Representative ADAMS of Portland and Senator MILLS of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Revise Certain Provisions of the Medical Examiner Act and
Provide for the Collection and Retention of Records to Identify Certain
Missing Persons.**



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

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4 Sec. 1. 22 MRSA §3022, sub-§8, as repealed and replaced by PL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

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

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

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

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26 Sec. 3. 22 MRSA §3025, sub-§1, ¶H, as repealed and replaced by
PL 1985, c. 611, §6, is amended to read:

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30 H. Deaths suspected of being medical examiner cases which
may have been ~~improperly certified by other than medical~~
~~examiners or the equivalent of a medical examiner~~ or
32 ~~inadequately examined~~, including, but not limited to, bodies
brought into the State under those circumstances;

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36 Sec. 4. 22 MRSA §3028, sub-§8, as enacted by PL 1979, c. 538,
§8, is amended to read:

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38 8. **Autopsy.** If, in any medical examiner case, in the
opinion of the medical examiner, the Chief Medical Examiner, the
40 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 must
42 be conducted by the Chief Medical Examiner or by ~~such pathologist~~
as a physician that the medical examiner, with the approval of
44 the Chief Medical Examiner, may designate. The medical examiner,
with the approval of the Chief Medical Examiner, may elect to
46 perform the autopsy. That The person who performs the autopsy
shall make a complete report of the findings of the autopsy and
48 shall transmit the report to the medical examiner and the Office
of ~~the~~ Chief Medical Examiner, retaining one copy ~~thereof~~ of the
50 report.

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Sec. 5. 22 MRSA §3034 is enacted to read:

§3034. Missing persons

1. Files; information. The Office of Chief Medical Examiner shall maintain files on missing persons sufficient for the purpose of identification when there is reason to suspect that those persons may not be found alive. These files may include such material as medical and dental records and specimens, details of personal property and physical appearance, samples of hair, fingerprints and specimens that may be useful for identification. The Chief Medical Examiner may require hospitals, physicians, dentists and other medical institutions and practitioners to provide information, samples and specimens. A person participating in good faith in the provision of the information, samples or specimens under this section is immune from any civil or criminal liability for that act or for otherwise cooperating with the Chief Medical Examiner.

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

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

4. Cooperation. All state and law enforcement agencies and public and private custodial institutions shall cooperate with the Office of Chief Medical Examiner in reporting, investigating, clearing and gathering further information and materials on missing persons.

STATEMENT OF FACT

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This bill revises certain provisions of the Medical Examiner Act. The bill provides that the contents of written or recorded conversations evidencing suicidal intent are not accessible by the general public. When it does not compromise the investigation, the Chief Medical Examiner is allowed to share the content of the communication with the family, a person addressed in the communication or the decedent's personal representative.

Under the bill, when information indicates that a death may be a medical examiner case, the medical examiner may treat it as such without regard to whether the original death certificate or examination was done by someone other than a medical examiner.

The bill gives medical examiners more freedom to use their own discretion in selecting physicians to do an autopsy, and allows the Chief Medical Examiner to give general approval to the selection without having to personally designate a specific physician in every case.

The bill provides for the reporting of missing persons and the accumulation and preservation of material, records and information that 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.