

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 502

H.P. 377

House of Representatives, February 1, 2005

An Act To Enable Police Departments To Solicit Donations for Colleagues Suffering from Catastrophic Illnesses

(EMERGENCY)

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative COLLINS of Wells.
Cosponsored by Senators: DIAMOND of Cumberland, SNOWE-MELLO of Androscoggin,
President EDMONDS of Cumberland and Representatives: BOWLES of Sanford,
CUMMINGS of Portland, DUPLESSIE of Westbrook, MARLEY of Portland, Speaker
RICHARDSON of Brunswick, TARDY of Newport, Senators: ANDREWS of York, DAMON
of Hancock.

2 **Emergency preamble.** Whereas, acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** current law regarding the solicitation of donations
by law enforcement agencies, associations or officers is unclear;
and

8
10 **Whereas,** clarification is necessary to distinguish between
solicitations for a law enforcement officer who has suffered a
catastrophic illness and who is in need and those solicitations
12 where undue influence may be present; and

14 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
16 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
18 safety; now, therefore,

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

22 **Sec. 1. 25 MRSA §3701, sub-§6,** as repealed by T. 25, §3701,
sub-§6 and amended by PL 2003, c. 560, §1, is repealed.

24 **Sec. 2. 25 MRSA §3702-A,** as repealed by T. 25, §3702-A and
26 amended by PL 2003, c. 560, §2, is repealed and the following
enacted in its place:

28 **§3702-A. Solicitation with approval**

30
32 A law enforcement agency, law enforcement association or law
enforcement officer may solicit donations of property from the
general public only when the property or any part of that
34 property in any way tangibly benefits, is intended to tangibly
benefit or is represented to be for the tangible benefit of a law
36 enforcement officer and only after meeting all of the
requirements of this section.

38 **1. Beneficiary.** The law enforcement agency, law
40 enforcement association or law enforcement officer may solicit
donations only for a law enforcement officer suffering from a
42 catastrophic illness.

44 **2. Approval of local officials.** The law enforcement
agency, law enforcement association or law enforcement officer
46 seeking to solicit donations under this section must obtain the
approval of:

48 **A.** The governing body of the municipality in which the
50 solicitation will occur. If the solicitation is intended to

2 encompass a county, the approval of the county commissioners
3 of that county is required. If the solicitation is intended
4 to take place in the unorganized territory, approval of the
5 Land Use Regulation Commission is required; and

6 B. The manager, if such a person exists, of any
7 municipality in which the solicitation will occur.

8
9 3. Approval of Attorney General. The law enforcement
10 agency, law enforcement association or law enforcement officer
11 seeking to solicit donations under this section must obtain the
12 written and notarized approval of the Attorney General. The
13 Attorney General may grant permission for the solicitation only
14 if satisfied that the law enforcement agency, law enforcement
15 association or law enforcement officer has obtained the approval
16 specified in subsection 2 and the requirements of subsections 1
17 and 4 have been met.

18
19 4. Funds held in escrow. Any funds collected pursuant to
20 this section must be held in an escrow account pursuant to this
21 subsection.

22
23 A. The escrow account under this subsection must be
24 established in a bank or trust company authorized to do
25 business in this State within the meaning of Title 9-B,
26 section 131, subsection 2 and acceptable to the Attorney
27 General. The funds deposited in the escrow account must be
28 kept and maintained in an account separate from accounts of
29 the law enforcement agency, law enforcement association or
30 law enforcement officer.

31
32 B. Checks, drafts and money orders from donors pursuant to
33 this section must be made payable only to the bank or trust
34 company. At the request of the Attorney General, the escrow
35 agent shall issue a statement indicating the status of the
36 escrow account.

37
38 C. Funds deposited in the escrow account are not subject to
39 any liens or charges by the escrow agent or judgments,
40 garnishments or creditor's claims against the law
41 enforcement agency, law enforcement association, law
42 enforcement officer or beneficiary of solicitations under
43 this section.

44
45 D. The funds raised pursuant to this section may be
46 released only to the beneficiary or to the heirs of the
47 beneficiary if the beneficiary dies.

48
49 6. Rules. The Attorney General shall adopt routine

2 technical rules pursuant to Title 5, chapter 375, subchapter 2-A
3 regarding the administration of this section.

4 7. Violation. Except as provided in this section, a law
5 enforcement agency, law enforcement association, law enforcement
6 officer or any other person may not solicit donations for a law
7 enforcement agency, law enforcement association or law
8 enforcement officer. Any violation of this section constitutes a
9 violation of the Maine Unfair Trade Practices Act.

10
11 **Emergency clause.** In view of the emergency cited in the
12 preamble, this Act takes effect when approved.

14

15 SUMMARY

16

17 This bill allows a law enforcement agency, law enforcement
18 association or law enforcement officer to solicit funds for a law
19 enforcement officer who is suffering from a catastrophic illness
20 after the law enforcement agency, association or officer obtains
21 the approval of the governing body of the area in which the
22 solicitation will occur and the Attorney General. Funds
23 collected must be retained in an escrow account maintained solely
24 for the benefit of the ill law enforcement officer or the heirs
of that officer if the officer dies.