

MAINE STATE LEGISLATURE

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H.P. 1321

House of Representatives, May 3, 2007

An Act To Protect the Lives and Health of Members of the Maine National Guard

(EMERGENCY)

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Speaker CUMMINGS of Portland. (GOVERNOR'S BILL)
Cosponsored by President EDMONDS of Cumberland and
Representatives: ADAMS of Portland, AYOTTE of Caswell, BABBIDGE of Kennebunk,
BARSTOW of Gorham, BEAUDETTE of Biddeford, BEAUDOIN of Biddeford, BEAULIEU
of Auburn, BERRY of Bowdoinham, BLANCHARD of Old Town, BLANCHETTE of
Bangor, BLISS of South Portland, BOLAND of Sanford, BRAUTIGAM of Falmouth,
BRYANT of Windham, BURNS of Berwick, CAIN of Orono, CAMPBELL of Newfield,
CANAVAN of Waterville, CARTER of Bethel, CASAVANT of Biddeford, CHASE of Wells,

CLARK of Millinocket, CLEARY of Houlton, CONNOR of Kennebunk, CONOVER of Oakland, COTTA of China, CRAVEN of Lewiston, CRAY of Palmyra, CROCKETT of Augusta, CROSTHWAITE of Ellsworth, DILL of Cape Elizabeth, DRISCOLL of Westbrook, DUCHESNE of Hudson, DUNN of Bangor, EATON of Sullivan, EBERLE of South Portland, FAIRCLOTH of Bangor, FARRINGTON of Gorham, FINCH of Fairfield, FINLEY of Skowhegan, FISCHER of Presque Isle, FISHER of Brewer, FITTS of Pittsfield, FLETCHER of Winslow, FLOOD of Winthrop, GERZOFSKY of Brunswick, GIFFORD of Lincoln, GILES of Belfast, GOULD of South Berwick, GREELEY of Levant, GROSE of Woolwich, HAMPER of Oxford, HANLEY of Gardiner, HARLOW of Portland, HASKELL of Portland, HAYES of Buckfield, HILL of York, HINCK of Portland, HOGAN of Old Orchard Beach, JACKSON of Allagash, JACOBSEN of Waterboro, JOY of Crystal, KNIGHT of Livermore Falls, KOFFMAN of Bar Harbor, LEWIN of Eliot, LUNDEEN of Mars Hill, MacDONALD of Boothbay, MAKAS of Lewiston, MARLEY of Portland, MAZUREK of Rockland, McDONOUGH of Scarborough, McFADDEN of Dennysville, McKANE of Newcastle, McLEOD of Lee, MILLER of Somerville, MILLETT of Waterford, MILLS of Farmington, MUSE of Fryeburg, NASS of Acton, NORTON of Bangor, PATRICK of Rumford, PENDLETON of Scarborough, PEOPLES of Westbrook, PERCY of Phippsburg, PERRY of Calais, PIEH of Bremen, PILON of Saco, PINEAU of Jay, PINGREE of North Haven, PINKHAM of Lexington Township, PIOTTI of Unity, PLUMMER of Windham, PRATT of Eddington, PRESCOTT of Topsham, PRIEST of Brunswick, RAND of Portland, RECTOR of Thomaston, RINES of Wiscasset, ROBINSON of Raymond, ROSEN of Bucksport, SAMSON of Auburn, SAVAGE of Falmouth, SAVIELLO of Wilton, SCHATZ of Blue Hill, SILSBY of Augusta, SIMPSON of Auburn, SIROIS of Turner, SMITH of Monmouth, SUTHERLAND of Chapman, TARDY of Newport, THERIAULT of Madawaska, THIBODEAU of Winterport, TIBBETTS of Columbia, TREAT of Farmingdale, TRINWARD of Waterville, TUTTLE of Sanford, VALENTINO of Saco, VAUGHAN of Durham, WAGNER of Lewiston, WALCOTT of Lewiston, WALKER of Lincolnville, WATSON of Bath, WEBSTER of Freeport, WEDDELL of Frankfort, WHEELER of Kittery, WOODBURY of Yarmouth, Senators: BARTLETT of Cumberland, BENOIT of Sagadahoc, BRANNIGAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, COURTNEY of York, DAMON of Hancock, DIAMOND of Cumberland, DOW of Lincoln, GOOLEY of Franklin, HASTINGS of Oxford, HOBBS of York, MARRACHÉ of Kennebec, MARTIN of Aroostook, McCORMICK of Kennebec, MITCHELL of Kennebec, NASS of York, NUTTING of Androscoggin, PERRY of Penobscot, RAYE of Washington, SAVAGE of Knox, SCHNEIDER of Penobscot, SHERMAN of Aroostook, SNOWE-MELLO of Androscoggin, STRIMLING of Cumberland, SULLIVAN of York, WESTON of Waldo.

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

3 **Whereas,** members of the Maine National Guard are being sent into military
4 conflicts throughout the world; and

5 **Whereas,** the health and lives of Maine National Guard members are at constant
6 risk; and

7 **Whereas,** it is essential to reduce these risks as soon as possible; and

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

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

13 **Sec. 1.** 37-B MRSA c. 8-A is enacted to read:

14 **CHAPTER 8-A**

15 **COMMISSION TO PROTECT THE LIVES AND HEALTH OF**
16 **MEMBERS OF THE MAINE NATIONAL GUARD**

17 **§531. Definitions**

18 As used in this chapter, unless the context otherwise indicates, the following terms
19 have the following meanings.

20 **1. Center for disease control.** "Center for disease control" means the Department
21 of Health and Human Services, Maine Center for Disease Control and Prevention.

22 **2. Commission.** "Commission" means the Commission to Protect the Lives and
23 Health of Members of the Maine National Guard established in section 532.

24 **3. Maine National Guard.** "Maine National Guard" includes the Maine Army
25 National Guard and the Maine Air National Guard.

26 **§532. Commission to Protect the Lives and Health of Members of the Maine**
27 **National Guard; established**

28 The Commission to Protect the Lives and Health of Members of the Maine National
29 Guard is established.

30 **1. Composition of commission.** The commission consists of:

31 A. The Adjutant General, who serves ex officio;

32 B. The director of the center for disease control, who serves ex officio;

- 1 C. The Director of the Bureau of Maine Veterans' Services, who serves ex officio;
- 2 D. A physician licensed in the State with experience and knowledge of preventive
- 3 care, appointed by the President of the Senate from a list provided by the Maine
- 4 Medical Association or its successor organization;
- 5 E. A pharmacist licensed in the State, appointed by the Speaker of the House;
- 6 F. A retired Maine veteran who has served in a war zone, appointed by the Speaker
- 7 of the House;
- 8 G. A family member of a deceased military person from the State who died from a
- 9 noncombat cause while serving in a military capacity, appointed by the Governor;
- 10 H. A disabled Maine military person with a major noncombat disability suffered
- 11 while serving in a military capacity, appointed by the President of the Senate; and
- 12 I. A psychologist licensed in the State, appointed by the Governor.

13 2. **Advisory members.** The Chief Medical Examiner within the Attorney General's

14 office shall serve as a nonvoting advisory member. The Director of the Department of

15 Veterans Affairs Medical at Togus Hospital or the director's designee may serve as a

16 nonvoting advisory member.

17 3. **Terms.** Each commission member must be appointed to a 3-year term, except ex

18 officio members, except that the terms of the initial members are staggered as follows.

19 A. The initial appointments made by the President of the Senate are for 3 years. The

20 initial appointment of the retired veteran made by the Speaker of the House pursuant

21 to subsection 1, paragraph F is for 2 years. The initial appointment of the family

22 member of a deceased military person who died from a noncombat cause pursuant to

23 subsection 1, paragraph G is for 2 years. The initial appointments of the

24 psychologist and the pharmacist are for one year. All appointments after the initial

25 appointments are for 3 years.

26 B. Ex officio members shall serve on the commission as long as they hold their

27 offices. Other members serve until their replacements have been appointed.

28 Members may be reappointed following the expirations of their terms.

29 4. **Chair.** The Governor shall appoint the chair of the commission from among its

30 membership, who may not be an ex officio member of the commission.

31 5. **Compensation.** Members of the commission, except ex officio members, are paid

32 a per diem and compensated for expenses at the same rates provided to Legislators under

33 Title 5, chapter 379.

34 **§533. Responsibilities of the commission**

35 1. **Responsibilities.** The commission, with assistance from the department and the

36 center for disease control, shall:

37 A. Review all the preventive health care treatment practices and protocols, including,

38 but not limited to, physical and emotional screenings, vaccinations,

1 electrocardiograms and physical examinations as they apply to members of the Maine
2 National Guard in different age groups;

3 B. Review the vaccinations and other medications currently provided to members of
4 the Maine National Guard, particularly those that produce allergic reactions and
5 dangerous side effects, and compare the vaccinations and medications with those
6 recommended by the National Institutes of Health, the United States Food and Drug
7 Administration and other sources of standards of medical care;

8 C. Propose recommendations and seek approval from the Armed Forces of the
9 United States for safer health care practices and protocols to be administered to
10 members of the Maine National Guard;

11 D. Propose and seek approval from the Armed Forces of the United States for the
12 Maine National Guard to retain a copy of the medical records of each member of the
13 Maine National Guard who is sent to active duty;

14 E. Provide for the education of members of the Maine National Guard and other
15 military personnel, especially medical staff, with respect to safer and more effective
16 health care practices and protocols;

17 F. Assist the families of Maine National Guard members who died in military service
18 from noncombat causes, including suicide, to obtain accurate and timely information
19 in regard to the deaths of the Maine National Guard members;

20 G. Provide for the cooperation and coordination of assistance between the Maine
21 National Guard and the center for disease control with respect to this chapter;

22 H. Work with the Bureau of Maine Veterans' Services to track the care of the
23 wounded Maine National Guard members within the health care systems of the
24 United States Department of Defense and the United States Department of Veterans
25 Affairs and serve as an advocate to ensure a high quality of care; and

26 I. Assist the Maine National Guard in ensuring appropriate demobilization
27 procedures and follow-up for Maine National Guard members related to mental
28 health issues, including, but not limited to, substance abuse and post-traumatic stress
29 disorder.

30 **2. Commission reports and recommendations.** The commission shall report its
31 findings and recommendations, including any necessary legislation, to the Governor and
32 the joint standing committees of the Legislature having jurisdiction over legal and
33 veterans affairs and health and human services matters.

34 A. The commission shall prepare a preliminary report for the Governor and
35 Legislature regarding its efforts under this section by April 1, 2008.

36 B. The commission shall issue a complete report regarding its efforts under this
37 section by December 15, 2008 and annually by December 15th thereafter.

38 **§534. Public hearings**

39 The commission shall meet at least 4 times a year, including at least one public
40 hearing a year at which Maine National Guard members and their families, former Maine

1 National Guard members and their families and members of the public may testify and
2 present concerns and recommendations for the commission to consider.

3 **§535. Assistance from state agencies**

4 The Commissioner of Defense, Veterans and Emergency Management and the
5 Commissioner of Health and Human Services through the center for disease control shall
6 coordinate their resources and provide assistance, including staff assistance, research,
7 reports and other assistance, to the commission in order to provide a higher standard of
8 preventive care to members of the Maine National Guard.

9 **Emergency clause.** In view of the emergency cited in the preamble, this
10 legislation takes effect when approved.

11 **SUMMARY**

12 This bill creates the Commission to Protect the Lives and Health of Members of the
13 Maine National Guard. The commission consists of 9 voting members and one or 2
14 advisory nonvoting members. The intent of the bill is to provide through the commission
15 a higher and safer standard for preventive medical practices and health screenings
16 administered to members of the Maine National Guard than currently exists.

17 The commission, working with the Department of Defense, Veterans and Emergency
18 Management and the Department of Health and Human Services, Maine Center for
19 Disease Control and Prevention, is required to review all preventive health care treatment
20 practices and protocols and vaccinations and other medications administered to members
21 of the Maine National Guard and propose recommendations to the Armed Forces of the
22 United States regarding safer health care practices and medications.

23 The commission shall also assist veterans' families who have members who have died
24 while in the Maine National Guard to obtain accurate and timely information regarding
25 the deaths. The commission shall track the care of wounded Maine National Guard
26 members and help ensure good care.

27 The commission must hold at least 4 public hearings a year to obtain information,
28 including information provided by veterans and their families in regard to the issues that
29 the commission is required to address.

30 Commission members include, among others, a physician, a psychologist, a
31 pharmacist, a retired veteran who has served in a war zone, a family member of a
32 deceased military person who died while serving in the Maine National Guard and a
33 disabled veteran who suffered a disability while serving in a military capacity.

34 The commission must issue its first complete report by December 15, 2008 and an
35 annual report thereafter.