

# MAINE STATE LEGISLATURE

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Date: 4/7/08

L.D. 1951  
(Filing No. H- 950)

**HEALTH AND HUMAN SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
123RD LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1389, L.D. 1951, Bill, "An Act To Create the Mental Health Homicide Review Board"

Amend the bill by striking out the title and substituting the following:

**'An Act To Create the Mental Health Homicide, Suicide and Aggravated Assault Review Board'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 34-B MRSA §1207, sub-§1, ¶B,** as amended by PL 2007, c. 286, §2, is further amended to read:

B. Information may be disclosed if necessary to carry out the statutory functions of the department, the hospitalization provisions of chapter 3, subchapter 4, the provisions of section 1931, the purposes of sections 3607-A and 3608, the purposes of Title 5, section 19506 or the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319;

**Sec. 2. 34-B MRSA c. 1, sub-c. 7** is enacted to read:

**SUBCHAPTER 7**

**MENTAL HEALTH HOMICIDE, SUICIDE AND AGGRAVATED  
ASSAULT REVIEW BOARD**

**§1931. Mental Health Homicide, Suicide and Aggravated Assault Review Board**

The Mental Health Homicide, Suicide and Aggravated Assault Review Board, referred to in this subchapter as "the board," is established. The board shall review homicides, suicides and aggravated assaults involving a person with severe and persistent mental illness as defined in section 3801, subsection 8-A.

**1. Members.** The board consists of:

A. An attorney who is a member of a statewide association of criminal defense lawyers appointed by the President of the Senate;

B. A psychiatrist appointed by the Speaker of the House;

C. A psychiatric nurse appointed by the President of the Senate;

D. A psychologist appointed by the Speaker of the House;

E. A law enforcement officer appointed by the President of the Senate;

F. The Commissioner of Health and Human Services or the commissioner's designee;

G. The Commissioner of Corrections or the commissioner's designee;

H. The Commissioner of Public Safety or the commissioner's designee;

I. A judge or justice assigned by the Chief Justice of the Supreme Judicial Court;

J. A representative of a prosecutors association designated by the Attorney General;

K. An assistant attorney general responsible for the prosecution of homicide cases designated by the Attorney General;

L. An assistant attorney general responsible for mental health cases designated by the Attorney General;

M. A mental health service provider appointed by the Speaker of the House;

N. A victim-witness advocate designated by the Attorney General; and

O. Three persons appointed by the Governor from a list of nominees designated by statewide organizations that advocate for the rights of persons with serious and persistent mental illness. At least one of the appointees must represent the interests of persons with severe and persistent mental illness who are victims of crimes.

**2. Terms.** Members who are not state officials serve 2-year terms without compensation.

**3. Recommendations.** The board shall recommend to state and local agencies methods of preventing homicides, suicides and aggravated assaults involving persons with severe and persistent mental illness, including modifications of laws, rules, policies and procedures.

R.A.S.

1 4. Collect data. The board shall collect and compile data related to homicides,  
2 suicides and aggravated assaults involving persons with severe and persistent mental  
3 illness. The board shall ensure that the collection of data and work of the board do not  
4 interfere with any pending criminal investigation or prosecution by state or county  
5 authorities.

6 5. Information and records. In any case subject to review by the board, upon  
7 written request of the board, any interested party that possesses information or records  
8 that are necessary and relevant to a review under this section shall as soon as practicable  
9 provide the board with the information and records. Persons disclosing or providing  
10 information or records upon the request of the board in compliance with this subsection  
11 are not criminally or civilly liable for disclosing or providing information or records.

12 6. Confidentiality. The proceedings of the board are confidential and are not public  
13 meetings for the purposes of the laws governing freedom of access, Title 1, chapter 13.  
14 Records of the board are confidential, are not public records for the purposes of the laws  
15 governing freedom of access, Title 1, chapter 13 and are not subject to subpoena,  
16 discovery or introduction into evidence in a civil or criminal action. The board shall  
17 disclose conclusions and recommendations of the board upon request in a manner that  
18 does not identify the parties, victims or witnesses. The board and members of the board  
19 may not disclose information, records or data that are otherwise classified as confidential.

20 7. Unlawful dissemination. A member of the board is guilty of unlawful  
21 dissemination if the member of the board knowingly disseminates records or information  
22 from those records that is confidential pertaining to a homicide, suicide or aggravated  
23 assault subject to review by the board. Unlawful dissemination is a Class E crime,  
24 punishable by a fine of not more than \$500 or by imprisonment of not more than 30 days.

25 8. Report. The board shall submit a report on the board's activities, conclusions and  
26 recommendations to the joint standing committee of the Legislature having jurisdiction  
27 over health and human services matters by January 30, 2009 and biennially thereafter.  
28 The committee shall review the report in a public meeting at which members of the  
29 public are provided an opportunity to address the committee.

30 **Sec. 3. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 34-B,  
31 section 1931, subsection 2, 2 of the members initially appointed by the Governor to the  
32 Mental Health Homicide, Suicide and Aggravated Assault Review Board must be  
33 appointed for one-year terms.'

34 **SUMMARY**

35 This amendment provides a new title for the bill and names the review board the  
36 Mental Health Homicide, Suicide and Aggravated Assault Review Board. It clarifies that  
37 the board has jurisdiction to review homicides, suicides and aggravated assaults involving  
38 persons with severe and persistent mental illness. It retains the same number of members  
39 on the board but changes the groups of persons represented or the reference to the groups.  
40 It requires the board to ensure that its data collection and work do not interfere with  
41 criminal investigations or prosecutions. It requires demands for the production of  
42 information or records to the board to be in writing and to an interested party. With  
43 regard to the restriction on releasing information, data or records, it extends that

COMMITTEE AMENDMENT "A" to H.P. 1389, L.D. 1951

REGS

1 restriction beyond the board to members of the board and makes dissemination in  
2 violation of the law a Class E crime. It requires disseminated conclusions and  
3 recommendations of the board to be disclosed in a manner that does not identify parties,  
4 victims or witnesses. It requires the biennial report of the board to be reviewed by the  
5 joint standing committee of the Legislature having jurisdiction over health and human  
6 services matters at a public meeting at which members of the public have an opportunity  
7 to address the committee. It amends the general confidentiality law that applies to the  
8 Department of Health and Human Services with regard to mental health information,  
9 exempts meetings and records of the board from the laws governing freedom of access in  
10 order to guard confidentiality and allows release of information of the work of the board.

FISCAL NOTE REQUIRED  
(See attached)

**COMMITTEE AMENDMENT**



# 123rd MAINE LEGISLATURE

LD 1951

LR 3248(02)

## An Act To Create the Mental Health Homicide Review Board

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Health and Human Services

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund

#### Correctional and Judicial Impact Statements

Establishes a new Class E crime. Sentences for a Class E crime must be served in a county jail. The average cost to a county for each Class E sentence is \$2,959 based on an average length of stay of 27 days. The Judicial Department anticipates a minor increase in caseload from this new crime.

#### Fiscal Detail and Notes

Costs associated with serving on the review board can be absorbed by the Department of Health and Human Services, the Department of Corrections, the Judicial Department, the Department of the Attorney General and the Department of Public Safety utilizing existing budgeted resources.