

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2107

H.P. 1493

House of Representatives, December 31, 2007

### **An Act To Establish a Forensic Case Review Panel To Advise the Department of Health and Human Services**

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Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.  
Reference to the Committee on Health and Human Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative HASKELL of Portland.  
Cosponsored by Senator RAYE of Washington.

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

2 **Sec. 1. 34-B MRSA §3011** is enacted to read:

3 **§3011. Forensic case review panel**

4 The department shall establish a forensic case review panel in accordance with this  
5 section.

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
7 following terms have the following meanings.

8 A. "Forensic case" means an instance in which a current or former consumer of  
9 mental health services in this State directly caused serious injury or death to another  
10 person in this State.

11 B. "Panel" means the forensic case review panel established under this section.

12 C. "Panel coordinator" means an employee of the department who is appointed by  
13 the commissioner to perform the duties under subsection 3. The panel coordinator  
14 must be a physician or psychologist or other mental health care professional licensed  
15 or registered in this State.

16 D. "Serious injury" means significant psychological or physical injury resulting in  
17 impairment of mental or physical function.

18 **2. Membership.** The panel consists of mental health professionals, mental health  
19 advocates, public safety officials, members of the state judiciary and other persons with  
20 professional expertise in mental health services. The commissioner shall appoint the  
21 members of the panel, who serve at the pleasure of the commissioner, and shall appoint a  
22 panel coordinator to provide staffing assistance to the panel as needed.

23 **3. Duties and powers of panel coordinator.** The panel coordinator has the duties  
24 and powers set forth in this subsection.

25 A. The panel coordinator shall review all forensic cases. The panel coordinator shall  
26 ensure that a review does not interfere with any pending criminal investigation or  
27 prosecution by state or county authorities.

28 B. In reviewing forensic cases under paragraph A, the panel coordinator or the panel  
29 coordinator's designee may conduct voluntary interviews with persons associated  
30 with forensic cases, including family members of a deceased or injured person. The  
31 purpose of a voluntary interview is limited to gathering information or data for the  
32 purposes of the panel in summary form. A person who conducts interviews under this  
33 paragraph must meet the qualifications for panel coordinator and also have  
34 professional experience or training in bereavement services. A person conducting an  
35 interview under this paragraph may make a referral for bereavement counseling for  
36 relevant persons in the case of a deceased person.

37 C. The panel coordinator shall prepare a summary of relevant information regarding  
38 a forensic case, including information about the deceased or injured person and the

1 current or former consumer of mental health services, and shall present the summary  
2 to the panel.

3 **4. Duties and powers of panel.** The panel:

4 A. May determine which of the cases presented it will consider, if any, and shall  
5 conduct comprehensive multidisciplinary reviews of data presented by the panel  
6 coordinator in those cases; and

7 B. Shall present an annual report to the department and to the joint standing  
8 committee of the Legislature having jurisdiction over health and human services  
9 matters. The report must identify factors contributing to the deaths and injuries  
10 reviewed, determine the strengths and weaknesses of the current mental health care  
11 delivery system in this State and make recommendations to the department to  
12 decrease the rate of death and serious injury directly caused by current or former  
13 consumers of mental health services in this State.

14 **5. Confidentiality.** All records created or maintained pursuant to this section, other  
15 than reports provided under subsection 4, paragraph B, are protected as provided in this  
16 subsection. The records are confidential under Title 22, section 42, subsection 5. The  
17 records are not open to public inspection, are not public records for the purposes of Title  
18 1, chapter 13, subchapter 1 and are not subject to subpoena or civil process nor  
19 admissible in evidence in connection with any judicial, executive, legislative or other  
20 proceeding. All members of the panel are obliged to maintain confidentiality of any  
21 information received in the course of their membership, both during such membership  
22 and thereafter. Any person who violates any provision of this subsection commits a Class  
23 D crime punishable by a fine of not more than \$500 or by imprisonment for not more  
24 than 11 months, or by both.

25 **6. Immunity.** A health care practitioner, hospital or health care facility or the  
26 employee or agent of that person or entity is not subject to civil or criminal liability  
27 arising from the disclosure or furnishing of records or information to the panel pursuant  
28 to this section.

29 **7. Funding.** The department may accept any public or private funds to carry out the  
30 purposes of this section.

31 **8. Rulemaking.** The department shall adopt rules to implement this section,  
32 including rules on collecting information and data, selecting members of the panel,  
33 collecting and using individually identifiable health information and conducting reviews  
34 under this section. The rules must ensure that access to individually identifiable health  
35 information is restricted as much as possible while enabling the panel to accomplish its  
36 work. The rules must establish a protocol to preserve confidentiality, specify the manner  
37 in which authorized representatives may be contacted for permission and maintain public  
38 confidence in the protection of individually identifiable information. Rules adopted  
39 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
40 subchapter 2-A.

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## SUMMARY

2        This bill establishes a forensic case review panel whose members are appointed by  
3 the Commissioner of Health and Human Services. The purpose of the panel is to study  
4 certain cases in which a current or former consumer of mental health services in this State  
5 caused serious injury or death to another while in this State and to report to the  
6 Department of Health and Human Services and the Legislature on factors contributing to  
7 the deaths and injuries reviewed and the strengths and weaknesses of the current mental  
8 health care delivery system and include recommendations to decrease the rate of death  
9 and serious injury directly caused by current or former consumers of mental health  
10 services in this State.