

MAINE STATE LEGISLATURE

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Date: 4/7/08

L.D. 2187
(Filing No. H-949)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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

COMMITTEE AMENDMENT "A" to H.P. 1557, L.D. 2187, Bill, "An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations"

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

Sec. 1. 25 MRSA §3701, sub-§8 is enacted to read:

8. Catastrophic illness. "Catastrophic illness" means an unforeseen, prolonged and extended illness, medical condition or injury that will likely cause death or permanent disability as determined by a licensed physician whose determination must be in writing.

Sec. 2. 25 MRSA §3701, sub-§9 is enacted to read:

9. Designated public benefit corporation. "Designated public benefit corporation" means a "public benefit corporation," as described in Title 13-B, section 1406, subsection 1, that does not employ or have on its board of directors any certified law enforcement officer and that has entered into an agreement with a law enforcement agency or law enforcement association as provided in section 3702-C.

Sec. 3. 25 MRSA §3701, sub-§10 is enacted to read:

10. Immediate family member. "Immediate family member" means a law enforcement officer's spouse, domestic partner, child or legal dependent.

Sec. 4. 25 MRSA §3702-C, as enacted by PL 2005, c. 397, Pt. C, §19, is amended to read:

§3702-C. Solicitation unlawful; exceptions

A Except as provided in this section, a law enforcement agency, law enforcement association, law enforcement officer or solicitation agent may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association.

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1 Any violation of this chapter constitutes a violation of the Maine Unfair Trade Practices
2 Act.

3 **1. Limited solicitation.** A law enforcement agency or association may solicit
4 property from the general public for the tangible benefit of a law enforcement officer, or
5 an immediate family member of a law enforcement officer, suffering from a catastrophic
6 illness by hosting fundraising events or by written solicitation.

7 A. A law enforcement agency or association may host ticketed fundraising events
8 that are open to the public as long as the events are advertised only through public
9 announcements and tickets are available for purchase only from a designated public
10 benefit corporation.

11 B. A law enforcement agency or association may make general public solicitations
12 for donations through public announcements or paid advertisements as long as all
13 donations are directed to be sent to a designated public benefit corporation.
14 Solicitations may not be sent directly to potential donors by mail or any other direct
15 means.

16 **2. Required notice.** Any public solicitation or advertisement for a fundraising event
17 must contain a notice that clearly identifies the name and address of the designated public
18 benefit corporation and the law enforcement officer or immediate family member for
19 whom the solicitation is made. The notice must also specify that any questions about the
20 solicitation may be directed to the Office of the Attorney General.

21 A. A notice for a fundraising event must read: "This event is sponsored by (insert
22 name of law enforcement agency or association) for the sole benefit of (insert name
23 and agency). All donations made pursuant to this solicitation must be sent to the
24 designated public benefit corporation, which may not disclose the names of donors."

25 B. A notice for a public solicitation must read: "This solicitation is made by (insert
26 name of law enforcement agency or association) for the sole benefit of (insert name
27 and agency). All donations made pursuant to this solicitation must be sent to the
28 designated public benefit corporation, which may not disclose the names of donors."

29 **3. Standardized written agreement.** Prior to engaging in any solicitation activity
30 under this section, a law enforcement agency or a law enforcement association and a
31 designated public benefit corporation must enter into a signed written agreement that
32 specifies the obligations of each party. The Office of the Attorney General shall provide
33 a standardized written agreement that must be used by the parties.

34 **4. No disclosure of donors.** A designated public benefit corporation that engages in
35 solicitation pursuant to this section may not disclose the names of any donors to any
36 person, except to the Attorney General.

37 **5. Limited reimbursement.** The law enforcement agency or law enforcement
38 association may reimburse the designated public benefit corporation only for its
39 advertising costs and may not otherwise pay the designated public benefit corporation for
40 its services provided under this section.

41 **6. Registration and reporting.** Each party to the written agreement shall comply
42 with all requirements for reporting to and registration with the Department of
43 Professional and Financial Regulation as a charitable organization, or as a charitable

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1 organization that is exempt from registration, pursuant to the Charitable Solicitations Act
2 and shall comply with any other reporting and registration requirements related to the
3 event or solicitation.

4 7. Escrow account. All funds collected by the designated public benefit
5 corporation under this section must be held in an escrow account pursuant to this
6 subsection.

7 A. The escrow account must be established by the designated public benefit
8 corporation in a bank or trust company authorized to do business in this State within
9 the meaning of Title 9-B, section 131, subsection 2. The funds deposited in the
10 escrow account must be kept and maintained in an account separate from any other
11 accounts.

12 B. Checks, drafts and money orders from donors may be made payable only to the
13 bank or trust company described in paragraph A.

14 C. Funds deposited in the escrow account are not subject to any liens or charges by
15 the escrow agent or judgments, garnishments or creditor's claims against the
16 designated public benefit corporation or beneficiary.

17 D. The funds may be paid only to the beneficiary, or to the heirs of the beneficiary if
18 the beneficiary dies, and must be paid within 30 days of the conclusion of the event
19 or written solicitation.

20 8. Accounting. Upon request, the designated public benefit corporation shall
21 provide an accounting of the funds received from the event or written solicitation and any
22 documents related to the fundraising event or solicitation, including the names of the
23 donors, to the Attorney General. The Attorney General may enforce application of funds
24 given or appropriated to public charities and prevent breaches of trust in their
25 administration, pursuant to Title 5, section 194, subsection 2.'

26 **SUMMARY**

27 This amendment replaces the bill and creates a narrowly tailored exception to the law
28 enforcement solicitation law by allowing only specific fundraising events and
29 solicitations in which law enforcement is removed from direct contact with the potential
30 donors. Specifically, the amendment does the following.

31 1. It defines "catastrophic illness," "designated public benefit corporation" and
32 "immediate family member" for purposes of the amendment.

33 2. It provides that a law enforcement agency or law enforcement association may
34 solicit property from the general public for the tangible benefit of a law enforcement
35 officer, or an immediate family member of a law enforcement officer, suffering from a
36 catastrophic illness in 2 specific ways. First, a law enforcement agency or association
37 may post advertisements in a public setting for a fundraising event, the tickets for which
38 are available for purchase only from a designated public benefit corporation. Second, a
39 law enforcement agency or association may make a public plea for donations through
40 advertisements provided that all donations are sent directly to a designated public benefit
41 corporation. Solicitations may not be sent directly to potential donors. Every solicitation
42 must contain a notice identifying the designated public benefit corporation, its address

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1 and the law enforcement officer or the officer's immediate family member for whom the
2 solicitation is made. The notice must also specify that any questions about the
3 solicitation may be directed to the Office of the Attorney General.

4 3. It requires a law enforcement agency or law enforcement association and a
5 designated public benefit corporation to sign a written agreement prior to engaging in any
6 solicitation activity. The Office of the Attorney General shall provide a standardized
7 written agreement that must be used.

8 4. It specifies that a designated public benefit corporation that engages in solicitation
9 pursuant to the Maine Revised Statutes, Title 25, section 3702-C may not disclose the
10 names of any donors to any person, except to the Attorney General.

11 5. It permits a law enforcement agency or law enforcement association to reimburse
12 a designated public benefit corporation only for its printing costs and prohibits any other
13 payment to the designated public benefit corporation for its services.

14 6. It requires that the parties to the written agreement comply with all requirements
15 for reporting to, and registration with, the Department of Professional and Financial
16 Regulation as a charitable organization, or as a charitable organization that is exempt
17 from registration, pursuant to the Charitable Solicitations Act. It also requires the parties
18 to comply with all other requirements related to the event or solicitation.

19 7. It requires that all funds collected by the designated public benefit corporation
20 under this section be held in an escrow account that is separate from any other accounts.
21 Checks, drafts and money orders from donors may be made payable only to the bank or
22 trust company. Funds deposited in the escrow account are not subject to any liens or
23 charges by the escrow agent or judgments, garnishments or creditor's claims against the
24 designated public benefit corporation or beneficiary of the solicitations.

25 8. It specifies that the funds may be paid only to the beneficiary, or to the heirs of the
26 beneficiary if the beneficiary dies, within 30 days of the conclusion of the event or
27 written solicitation.

28 9. It requires that, upon request, a designated public benefit corporation provide an
29 accounting of the funds received from the event or written solicitation and any documents
30 related to the fundraising event or solicitation, including the names of the donors, only to
31 the Attorney General, who is vested with authority to enforce due application of funds
32 given, or appropriated, to public charities and to prevent breaches of trust in their
33 administration.

34 **FISCAL NOTE REQUIRED**
35 **(See attached)**



Approved: 04/03/08 *MAC*

123rd MAINE LEGISLATURE

LD 2187

LR 3244(02)

An Act To Allow Limited Charitable Solicitations by Law Enforcement Associations

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

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of the Attorney General can be absorbed utilizing existing budgeted resources.