

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE LAW LIBRARY  
AUGUSTA, MAINE



# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

---

Legislative Document

No. 1166

H.P. 805

House of Representatives, March 25, 2009

**An Act To Implement the Recommendations of the Ad Hoc Task  
Force on the Use of Deadly Force by Law Enforcement Officers  
Against Individuals Suffering From Mental Illness**

---

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PRIEST of Brunswick.  
Cosponsored by Senator GERZOFKY of Cumberland and  
Representatives: BURNS of Whiting, GREELEY of Levant, HANLEY of Gardiner,  
HASKELL of Portland, LAJOIE of Lewiston, WHEELER of Kittery.

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

2 **Sec. 1. 25 MRSA §2803-B, sub-§1, ¶J**, as corrected by RR 2003, c. 2, §90, is  
3 amended to read:

4 J. Public notification regarding persons in the community required to register under  
5 Title 34-A, chapter 15; and

6 **Sec. 2. 25 MRSA §2803-B, sub-§1, ¶K**, as reallocated by RR 2003, c. 2, §91, is  
7 amended to read:

8 K. Digital, electronic, audio, video or other recording of law enforcement interviews  
9 of suspects in serious crimes and the preservation of investigative notes and records  
10 in such cases; and

11 **Sec. 3. 25 MRSA §2803-B, sub-§1, ¶L** is enacted to read:

12 L. Mental illness and the process for involuntary commitment.

13 **Sec. 4. 25 MRSA §2803-B, sub-§2**, as repealed and replaced by PL 2005, c. 397,  
14 Pt. C, §17, is amended to read:

15 **2. Minimum policy standards.** The board shall establish minimum standards for  
16 each law enforcement policy no later than June 1, 1995, except that policies for expanded  
17 requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1)  
18 to (3) must be established no later than January 1, 2003; policies for death investigations  
19 under subsection 1, paragraph I must be established no later than January 1, 2004;  
20 policies for public notification regarding persons in the community required to register  
21 under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later  
22 than January 1, 2006; and policies for the recording and preservation of interviews of  
23 suspects in serious crimes under subsection 1, paragraph K must be established no later  
24 than January 1, 2005; and policies for mental illness and the process for involuntary  
25 commitment under subsection 1, paragraph L must be established no later than January 1,  
26 2010.

27 **Sec. 5. 25 MRSA §2803-B, sub-§3**, as repealed and replaced by PL 2005, c. 331,  
28 §16 and affected by §33, is amended to read:

29 **3. Agency compliance.** The chief administrative officer of each law enforcement  
30 agency shall certify to the board no later than January 1, 1996 that the agency has adopted  
31 written policies consistent with the minimum standards established by the board pursuant  
32 to subsection 2, except that certification to the board for expanded policies for domestic  
33 violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the  
34 board no later than June 1, 2003; certification to the board for adoption of a death  
35 investigation policy under subsection 1, paragraph I must be made to the board no later  
36 than June 1, 2004; certification to the board for adoption of a public notification policy  
37 under subsection 1, paragraph J must be made to the board no later than June 1, 2006; and  
38 certification to the board for adoption of a policy for the recording and preservation of  
39 interviews of suspects in serious crimes under subsection 1, paragraph K must be made to  
40 the board no later than June 1, 2005; and certification to the board for adoption of a

1 policy regarding mental illness and the process for involuntary commitment under  
2 subsection 1, paragraph L must be made to the board no later than June 1, 2010. The  
3 certification must be accompanied by copies of the agency policies. The chief  
4 administrative officer of each agency shall certify to the board no later than June 1, 1996  
5 that the agency has provided orientation and training for its members with respect to the  
6 policies, except that certification for orientation and training with respect to expanded  
7 policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3)  
8 must be made to the board no later than January 1, 2004; certification for orientation and  
9 training with respect to policies regarding death investigations under subsection 1,  
10 paragraph I must be made to the board no later than January 1, 2005; certification for  
11 orientation and training with respect to policies regarding public notification under  
12 subsection 1, paragraph J must be made to the board no later than January 1, 2007; ~~and~~  
13 certification for orientation and training with respect to policies regarding the recording  
14 and preservation of ~~interview~~ interviews of suspects in serious crimes under subsection 1,  
15 paragraph K must be made to the board no later than January 1, 2006; and certification  
16 for orientation and training with respect to policies regarding mental illness and the  
17 process for involuntary commitment under subsection 1, paragraph L must be made to the  
18 board no later than January 1, 2011.

19 **Sec. 6. 25 MRSA §2804-C, sub-§2-D** is enacted to read:

20 **2-D. Training regarding people who have mental illness and the involuntary**  
21 **commitment process.** The board shall include in the basic law enforcement training  
22 program a block of instruction aimed specifically at the clinical, safety and procedural  
23 components of the involuntary commitment process, including the provision of a uniform  
24 checklist that includes reference to Title 34-B, section 1207, subsection 7 for law  
25 enforcement officers to use in order to effectively describe the seriousness of a case to a  
26 mental health professional.

27 **Sec. 7. 34-B MRSA §1207, sub-§6-A**, as enacted by PL 2007, c. 310, §6, is  
28 amended to read:

29 **6-A. Disclosure of danger.** A licensed mental health professional ~~may~~ shall  
30 disclose protected health information that the professional believes is necessary to avert a  
31 serious and imminent threat to health or safety when the disclosure is made in good faith  
32 to any person, including a target of the threat, who is reasonably able to prevent or  
33 minimize the threat.

34 **Sec. 8. 34-B MRSA §1207, sub-§7** is enacted to read:

35 **7. Disclosure to law enforcement.** A licensed mental health professional shall  
36 disclose protected health information when the disclosure is made in good faith for a law  
37 enforcement purpose to a law enforcement officer if the conditions, as applicable, are met  
38 as described in 45 Code of Federal Regulations, Section 164.512(f) (2008).

39 **Sec. 9. 34-B MRSA §1207, sub-§8** is enacted to read:

40 **8. Disclosure of knowledge of firearms.** A licensed mental health professional  
41 shall notify law enforcement when the notification is made in good faith that the licensed

1 mental health professional has reason to believe that a person committed to a state mental  
2 health institute has access to firearms.

3 **Sec. 10. 34-B MRSA §3863, sub-§6-A** is enacted to read:

4 **6-A. Notification to law enforcement of release after examination.** When a  
5 person is taken by a law enforcement officer to a psychiatric hospital for examination  
6 under this section and not admitted but released, the chief administrative officer of the  
7 hospital shall notify the law enforcement officer or the law enforcement officer's agency  
8 of that release.

9 **Sec. 11. 34-B MRSA §3871, sub-§7** is enacted to read:

10 **7. Firearms and discharge planning.** Discharge planning must include inquiries  
11 and documentation of those inquiries into access by the patient to firearms and  
12 notification to the patient, the patient's family and any other caregivers that possession,  
13 ownership or control of a firearm by the person to be discharged is prohibited pursuant to  
14 Title 15, section 393, subsection 1. As used in this subsection, "firearm" has the same  
15 meaning as in Title 17-A, section 2, subsection 12-A.

16 **Sec. 12. Mental illness training in the tactical team certification.** The  
17 Board of Trustees of the Maine Criminal Justice Academy shall incorporate specific  
18 training on mental illness as a component of the police tactical team certification process.

19 **Sec. 13. Development of uniform checklist for law enforcement.** The  
20 Commissioner of Health and Human Services shall develop, in cooperation with  
21 representatives of state, local and county law enforcement, a uniform checklist to be used  
22 by all law enforcement officers in order to effectively describe the seriousness of a case  
23 to a mental health professional.

24 **Sec. 14. Education regarding prohibition of firearms.** The Commissioner of  
25 Health and Human Services shall develop a method to provide education to all mental  
26 health professionals regarding the prohibition of possessing firearms by certain persons as  
27 described in the Maine Revised Statutes, Title 15, section 393.

## 28 SUMMARY

29 This bill implements legislative recommendations from the Attorney General's Ad  
30 Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against  
31 Individuals Suffering From Mental Illness. The bill includes recommendations for  
32 increased law enforcement training and awareness of mental illness and the involuntary  
33 commitment process, increased sharing of mental health patients' information by mental  
34 health professionals to law enforcement consistent with Health Insurance Portability and  
35 Accountability Act of 1996 standards and increased education and awareness on the part  
36 of mental health providers regarding prohibitions of access to firearms by persons who  
37 are to be discharged from commitment.