

MAINE STATE LEGISLATURE

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Date: 4/12/11

L.D. 168
(Filing No. H-86)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 145, L.D. 168, Bill, "An Act To Require a Medical Examiner To Determine whether an Autopsy Is Needed in the Case of the Death of a Prisoner in a Correctional Facility"

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

Sec. 1. 22 MRSA §3025, sub-§1, ¶D, as repealed and replaced by PL 1985, c. 611, §6, is amended to read:

D. Death when the person is in custody pursuant to an arrest, confined in a state correctional facility, county institution jail, other correctional facility or local lockup; unless clearly certifiable by an attending physician as due to specific natural causes or is in transport between any of these places while in the custody of a law enforcement officer or county or state corrections official;

Sec. 2. 30-A MRSA §1562-A is enacted to read:

§1562-A. Death of a prisoner

When a prisoner in county or state custody dies, an examination and inquest must be held, and the commissioner or the chief administrative officer of the facility shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "county or state custody" means custody pursuant to an arrest, confinement in a state correctional facility, county jail, other correctional facility or local lockup or when the prisoner is in transport between any of these places while in the custody of a law enforcement officer or county or state corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed.

Sec. 3. 30-A MRSA §1563, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

COMMITTEE AMENDMENT

§1563. Disposal of body of person who died in jail

When a person dies in jail and if the medical examiner determines that an autopsy is not needed under section 1562-A, the jailer or sheriff shall deliver the body to the friends of the deceased, if requested. Otherwise, the jailer or sheriff shall dispose of it for anatomical purposes, as provided in Title 22, chapter 709, unless the deceased at any time requested to be buried, in which case the jailer or sheriff shall bury the body in the common burying ground and the burial expenses shall must be paid by the municipality in which the deceased had a residence, if any in the State, or, if not, by the State.

Sec. 4. 34-A MRSA §3045, as amended by PL 1991, c. 314, §49, is further amended to read:

§3045. Death of client

~~When the death of any client in any correctional or detention facility is not clearly the result of natural causes~~ county or state custody dies, an examination and inquest must be held ~~as in other cases~~, and the commissioner or the chief administrative officer of the facility shall cause a medical examiner to be immediately notified for that purpose pursuant to Title 22, section 3025. For purposes of this section, "county or state custody" means custody pursuant to an arrest, confinement in a state correctional facility, county jail, other correctional facility or local lockup or when the prisoner is in transport between any of these places while in the custody of a law enforcement officer or county or state corrections official. The medical examiner shall also review the case file and relevant medical records and determine whether an autopsy is needed. If the medical examiner determines that an autopsy is needed, an autopsy must be performed.'

SUMMARY

This amendment replaces the bill and amends the statute regarding medical examiner cases to specify that a medical examiner case may exist and must be reported when a person dies in custody pursuant to an arrest or confinement in a state correctional facility, county jail, other correctional facility or local lockup or while in transport between any of these places while in the custody of a law enforcement officer or county or state corrections official. The amendment removes the current exception covering a prisoner's death that is due to specific natural causes that are clearly certifiable by an attending physician. This means that whenever a death occurs in these circumstances, the death must be reported to the Chief Medical Examiner, and the Chief Medical Examiner must then determine whether the case is a medical examiner case. The amendment also amends the provision in the Maine Revised Statutes, Title 34-A regarding the unnatural death of a client to be consistent with the Chief Medical Examiner's responsibilities described under Title 22, chapter 711.