

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1039

S.P. 365

In Senate, March 24, 2015

An Act To Amend the Polygraph Examiners Act

Submitted by the Department of Public Safety pursuant to Joint Rule 204.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator HASKELL of Cumberland.

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

2 **Sec. 1. 32 MRSA §7352, sub-§§2-A and 5-A** are enacted to read:

3 **2-A. Criminal justice agency.** "Criminal justice agency" has the same meaning as
4 in Title 16, section 803, subsection 4.

5 **5-A. Polygraph examination.** "Polygraph examination" means an examination
6 conducted by a polygraph examiner that consists of a pre-test phase, an in-test phase and
7 a post-test phase.

8 **Sec. 2. 32 MRSA §7365, sub-§1**, as enacted by PL 2013, c. 316, §3 and affected
9 by §5, is amended to read:

10 **1. Disclosure prohibited.** A polygraph examiner, ~~intern or employee of a polygraph~~
11 ~~examiner~~ may not disclose information acquired from a polygraph examination, or
12 records resulting from a polygraph examination, to another person other than:

13 A. The subject of the examination or the subject's attorney;

14 B. Any other person specifically designated in writing by the subject of the
15 examination;

16 C. A member or agent of the department that licenses ~~a polygraph examiner or law~~
17 ~~enforcement agency that supervises or controls a polygraph examiner's activities~~
18 examiners;

19 C-1. A member or agent of a criminal justice agency that employs or contracts with
20 the polygraph examiner.

21 C-2. A member or agent of a criminal justice agency, if the polygraph examiner
22 conducts a polygraph examination in the course of a criminal investigation;

23 D. Another licensed polygraph examiner in private, professional consultation; ~~or~~

24 D-1. A person employed by or working as an intern with the polygraph examiner;

25 D-2. The Maine Criminal Justice Academy and its board of trustees, if the subject of
26 the polygraph examination is an applicant for admission to the academy or for law
27 enforcement certification that is being considered by the academy or board;

28 E. The Department of Health and Human Services pursuant to section 7361,
29 subsection 1, paragraph F; or

30 F. As otherwise required or authorized by law.

31 **Sec. 3. 32 MRSA §7365, sub-§§2 and 4**, as enacted by PL 2013, c. 316, §3 and
32 affected by §5, are amended to read:

33 **2. Further disclosure prohibited.** A polygraph examiner or other person to whom
34 information acquired from a polygraph examination is disclosed under subsection 1 may
35 not further disclose the information or records, except as otherwise required or authorized
36 by law.

1 **4. Records in custody of commissioner.** Records in the custody of the
2 commissioner pursuant to this chapter are confidential if those records contain:

- 3 A. Personal medical information of an applicant or licensee under this chapter; or
4 B. Personally identifying information of a minor to whom a polygraph examination
5 has been administered.

6 Nothing in this chapter prohibits the use of statements or disclosures voluntarily made by
7 the subject of a polygraph examination that are adverse to the subject's interests from
8 being used against the subject in the course of a criminal investigation or prosecution, to
9 the fullest extent permitted by law.

10 **Sec. 4. 32 MRSA §7381, sub-§1, ¶B,** as enacted by PL 2013, c. 316, §3 and
11 affected by §5, is repealed and the following enacted in its place:

12 B. Be accompanied by a nonrefundable fee in the amount of:

- 13 (1) For an initial polygraph examiner license, \$100;
14 (2) For a renewal of a polygraph examiner license, \$100; and
15 (3) For a polygraph examiner intern license, \$50.

16 **Sec. 5. 32 MRSA §7381, sub-§2,** as enacted by PL 2013, c. 316, §3 and affected
17 by §5, is amended to read:

18 **2. Term of initial and renewal polygraph examiner license.** A An initial
19 polygraph examiner license is issued valid for a 2-year term period of 2 years and may be
20 renewed. Each renewal polygraph examiner license is valid for a period of 4 years.

21 **Sec. 6. 32 MRSA §7382, sub-§1,** as enacted by PL 2013, c. 316, §3 and affected
22 by §5, is amended to read:

23 **1. Qualifications.** A person is qualified for a polygraph examiner license if the
24 person:

25 A. Has not been convicted of a crime for which a license may be denied under Title
26 5, chapter 341;

27 B. Either:

28 (1) Holds a baccalaureate degree from ~~a~~ an accredited college or university
29 accredited by an organization recognized by the commissioner; or

30 (2) Has at least 5 years of ~~active investigative~~ experience with , including 3 years
31 on a full-time basis, as a sworn member of an investigative service of the United
32 States as a sworn member of a branch of the United States Armed Forces, a
33 federal investigative agency or a law enforcement agency immediately preceding
34 the date of application;

35 C. Is a graduate of a commissioner-approved polygraph examiner course and has
36 satisfactorily completed at least 6 months of a polygraph examiner internship; and

1 D. Has passed an examination ~~approved by the commissioner~~ to determine the
2 person's ~~competency for a license~~ knowledge relevant to being a licensed polygraph
3 examiner in the State.

4 **SUMMARY**

5 The bill makes the following changes to the Polygraph Examiners Act:

6 1. It defines "polygraph examination;"

7 2. It specifically authorizes a polygraph examiner to disclose information acquired
8 from a polygraph examination to a member of a criminal justice agency if the polygraph
9 examination is conducted in the course of a criminal investigation; another licensed
10 polygraph examiner in a professional consultation; an employee or intern working with
11 the polygraph examiner; or as otherwise provided by law;

12 3. It provides that statements or disclosures voluntarily made by an examinee that are
13 adverse to the examinee's interests may be used against the examinee in the course of a
14 criminal investigation or prosecution, to the fullest extent permitted by law;

15 4. It establishes fees for initial and renewal polygraph examiner licenses, and for
16 intern polygraph examiner licenses;

17 5. It extends the term of a renewal polygraph examiner license from 2 to 4 years; and

18 6. It more specifically outlines the qualifications a person must have in order to be
19 eligible to obtain a polygraph examiner license.