

# MAINE STATE LEGISLATURE

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Date: 6/18/19

(Filing No. H-644)

**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 879, L.D. 1219, Bill, "An Act To Establish an Independent Board To Review Law Enforcement Officer-involved Deaths"

Amend the bill by striking out the title and substituting the following:

**'An Act To Establish an Independent Panel To Review the Use of Deadly Force by Law Enforcement Officers'**

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

**'Sec. 1. 5 MRSA §200-K is enacted to read:**

**§200-K. Deadly Force Review Panel**

There is created, within the Office of the Attorney General, the Deadly Force Review Panel, referred to in this section as "the panel." The panel must, to the extent practicable, include members that reflect the diversity of Maine's racial, gender, indigenous and tribal demographics.

**1. Composition.** The panel is composed of 15 members as follows:

- A. The Commissioner of Public Safety, ex officio;
- B. The director of investigations for the Office of the Attorney General, ex officio;
- C. The Director of the Maine Criminal Justice Academy, ex officio;
- D. The Chief Medical Examiner, ex officio;
- E. An attorney who represents plaintiffs in actions under 42 United States Code, Section 1983 appointed by the Attorney General;
- F. A municipal police chief appointed by the Attorney General;
- G. A county sheriff appointed by the Attorney General;
- H. A mental health professional appointed by the Attorney General;

**COMMITTEE AMENDMENT**

100

- 1 I. A representative of a statewide collective bargaining organization for law
- 2 enforcement employees appointed by the Attorney General;
- 3 J. A representative of a statewide civil rights organization whose primary mission is
- 4 related to racial justice appointed by the Attorney General;
- 5 K. An attorney who represents defendants in actions under 42 United States Code,
- 6 Section 1983 appointed by the Attorney General;
- 7 L. A criminal prosecutor appointed by the Attorney General; and
- 8 M. Three citizens, each of whom is not and has never been a sworn law enforcement
- 9 officer, appointed by the Attorney General.

10 **2. Designees; terms of office.** An ex officio member of the panel may appoint a

11 designee to represent the ex officio member on the panel for one or more meetings. A

12 designee, once appointed, qualifies as a full voting member of the panel and may hold

13 office and enjoy all the other rights and privileges of full membership on the panel. The

14 appointed members of the panel serve for a term of 3 years. Any vacancy on the panel

15 must be filled in the same manner as the original appointment for the unexpired term.

16 **3. Meetings; officers.** The Attorney General shall call the first meeting before

17 January 1, 2020. The panel shall organize initially and annually thereafter by electing a

18 chair and a vice-chair from among its members. The vice-chair shall also serve as

19 secretary. The panel shall meet at such time or times as may be reasonably necessary to

20 carry out its duties, but it shall meet at least once in each calendar quarter at such place

21 and time as the panel determines and it shall meet at the call of the chair.

22 **4. Powers and duties.** The panel shall examine deaths or serious injuries resulting

23 from the use of deadly force by a law enforcement officer after the Attorney General has

24 completed the investigation of the use of deadly force under section 200-A. The purpose

25 of such examinations is to identify whether there was compliance with accepted and best

26 practices under the particular circumstances and whether the practices were sufficient for

27 the particular circumstances or whether the practices require adjustment or improvement.

28 The panel shall recommend methods of improving standards, including changes to

29 statutes, rules, training, policies and procedures designed to ensure incorporation of best

30 practices that demonstrate increased public safety and officer safety.

31 **5. Access to information and records.** In any case subject to review by the panel,

32 unless prohibited by federal law and notwithstanding any provision of law to the contrary,

33 upon oral or written request of the panel, any person who possesses information or

34 records that are necessary and relevant to a panel review shall as soon as practicable

35 provide the panel with the information and records. Persons disclosing or providing

36 information or records upon request of the panel are not criminally or civilly liable for

37 disclosing or providing information or records in compliance with this subsection. The

38 panel in its discretion may consult with content experts or other professionals and discuss

39 necessary information or records within the scope of such consultations.

40 **6. Confidentiality.** The proceedings of the panel are not public proceedings and the

41 records of the panel are confidential and are not subject to subpoena, discovery or

42 introduction into evidence in a civil or criminal action. The Legislature may inspect and

43 review records covered by this subsection under conditions that protect the information

1 from further disclosure. The Office of the Attorney General shall disclose conclusions of  
2 the panel but may not disclose information, records or data that are otherwise classified as  
3 confidential.

4 7. Incident examination and annual reports. Within 30 days of the conclusion of  
5 the examination of the use of deadly force by a law enforcement officer under subsection  
6 4, the panel shall submit a report on the panel's activities, conclusions and  
7 recommendations with regard to the incident to the joint standing committee of the  
8 Legislature having jurisdiction over judiciary matters. The panel shall submit a report by  
9 January 30, 2021, and annually thereafter, that summarizes the panel's meetings and the  
10 incidents of the use of deadly force by law enforcement officers that resulted in deaths or  
11 serious injuries that the panel examined in the preceding year.

12 **Sec. 2. 5 MRSA §12004-I, sub-§74-J is enacted to read:**

13 **74-J.**

14 Public Safety                      Deadly Force                      Not Authorized                      5 MRSA §200-K  
15    Review Panel  
16

17 **SUMMARY**

18 This amendment replaces the bill and revises the title to reflect that the panel will  
19 review use of deadly force by law enforcement officers, not just officer-related deaths.

20 The amendment establishes a panel of 15 members. The following are ex officio  
21 members, although each may appoint a designee to attend meetings and participate as a  
22 panel member: the Commissioner of Public Safety; the Director of Investigations for the  
23 Office of the Attorney General; the Director of the Maine Criminal Justice Academy; and  
24 the Chief Medical Examiner. The remaining members are appointed by the Attorney  
25 General: an attorney who represents plaintiffs in actions under 42 United States Code,  
26 Section 1983; a municipal police chief; a county sheriff; a mental health professional; a  
27 representative of a statewide collective bargaining law enforcement organization; a  
28 representative of a statewide civil rights organization; an attorney who represents  
29 defendants in actions under 42 United States Code, Section 1983; a criminal prosecutor;  
30 and 3 citizens, each of whom is not and has never been a sworn law enforcement officer.

31 The panel is directed to select a chair and a vice-chair and must meet at least  
32 quarterly. The Attorney General must call the first meeting before January 1, 2020.

33 The panel examines deaths and serious injuries that result from a law enforcement  
34 officer's use of deadly force. The panel will wait to conduct its examination until the  
35 Attorney General conducts the investigation of the use of deadly force by a law  
36 enforcement officer as required in current law. The purpose of the examinations is to  
37 identify whether there was compliance with accepted and best practices under the  
38 particular circumstances and whether the practices were sufficient for the particular  
39 circumstances or whether the practices require adjustment or improvement. The panel  
40 must recommend methods of improving standards, including changes to statutes, rules,  
41 training, policies and procedures designed to ensure incorporation of best practices that  
42 demonstrate increased public safety or officer safety.





# 129th MAINE LEGISLATURE

LD 1219

LR 985(02)

**An Act To Establish an Independent Board To Review Law Enforcement Officer-involved Deaths**

**Fiscal Note for Bill as Amended by Committee Amendment**

*A(H-644)*

**Committee: Judiciary**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Any additional costs to the departments whose commissioners are required to serve on the Deadly Force Review Panel are assumed to be minor and can be absorbed within existing budgeted resources.