

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

may not reduce the damages recovered for physical injury to that person unless the court determines that the fault of the person injured exceeded the fault of the dog's keeper or owner.

**Sec. 2. 7 MRSA §3961-A** is enacted to read:

**§3961-A. Attack on service dog**

A person who owns or keeps a dog that attacks, injures or kills a service dog while the service dog is in discharge of its duties commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.

When a person is adjudicated of a violation of this section, the court shall order the person to make restitution to the owner of the service dog for any veterinary bills and necessary retraining costs or replacement costs of the dog if it is disabled or killed.

For the purposes of this section, "service dog" means a guide dog for the visually impaired, a hearing dog trained to alert a person with impaired hearing or a personal care dog as defined in Title 17, section 1312, subsection 7.

See title page for effective date.

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**CHAPTER 221**

**H.P. 1213 - L.D. 1645**

**An Act to Address Confidentiality of Records in the Medical Examiner Act**

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

**Sec. 1. 22 MRSA §3022, sub-§8**, as amended by PL 1991, c. 339, §1, is repealed and the following enacted in its place:

**8. Certain information confidential.** The following records in the possession or custody of a medical examiner or the Office of the Chief Medical Examiner are not public records within the meaning of Title 1, section 402, subsection 3 and are confidential:

A. Medical records relating to a medical examiner case;

B. Law enforcement agency reports or records relating to a medical examiner case;

C. Communications with the Department of the Attorney General relating to a medical examiner case;

D. Communications with the office of a district attorney relating to a medical examiner case;

E. Death certificates and amendments made to the certificates, except for the information for which the medical examiner is responsible, as listed in section 2842, subsection 3, and not ordered withheld by the Attorney General relating to a medical examiner case or missing person;

F. Photographs and transparencies, histological slides, videotapes and other like items relating to a medical examiner case; and

G. Written or otherwise recorded communications that express or are evidence of suicidal intent obtained under section 3028, subsections 4 and 5.

**Sec. 2. 22 MRSA §3022, sub-§9**, as repealed and replaced by PL 1987, c. 329, §2, is repealed.

**Sec. 3. 22 MRSA §3022, sub-§10**, as repealed and replaced by PL 1987, c. 329, §2, is amended to read:

**10. Cooperation with research requests.** The Office of Chief Medical Examiner shall cooperate with research requests by supplying abstracted data ~~and copies of reports~~ to interested persons ~~and agencies~~ consistent with the available resources of the office.

**Sec. 4. 22 MRSA §3022, sub-§11**, as enacted by PL 1991, c. 339, §2, is repealed.

**Sec. 5. 22 MRSA §3022, sub-§§12, 13, 14 and 15** are enacted to read:

**12. Access to or dissemination of confidential records.** Except as specified in subsections 10 and 13, access to or dissemination of records made confidential under subsection 8 is limited to:

A. A criminal justice agency for the purpose of the administration of criminal or juvenile justice;

B. A person for whom the Chief Medical Examiner determines access is necessary or desirable to carry out a duty under this Act;

C. A person for whom the Chief Medical Examiner determines access is necessary or desirable to allow for the harvesting of a decedent's organs and other tissues;

D. A person when authorized or required under any state or federal law, rule or regulation; and

E. A person pursuant to a court order.

Access to or dissemination of records as provided under paragraphs A to C can be done as a matter of course by the Chief Medical Examiner unless the Attorney General directs otherwise.

**13. Access to certain information by certain persons.** Unless a medical examiner case is under investigation by the Department of the Attorney General or the office of a district attorney and the Attorney General or the district attorney determines that there is a reasonable possibility that release or inspection interferes with a criminal investigation or prosecution by the disclosure:

A. Items identified in subsection 8, paragraphs F and G may be inspected and copies obtained, upon payment of any required fee under section 3035, by:

(1) A next of kin of the deceased, as defined under section 2843-A. The Chief Medical Examiner may provide the original of the items described in subsection 8, paragraph G to the next of kin or other person to whom that item is addressed or directed;

(2) An insurer that may be responsible for payment of benefits as a result of a death if relevant to the payment obligation;

(3) An attorney representing the estate of the decedent or the decedent's property if relevant to the representation; and

(4) An attorney representing a person or a person's estate and exploring a possible civil action against the estate of the decedent if relevant to the representation; and

B. A person may inspect and obtain a copy of communications identified in subsection 8, paragraphs C and D, except work product as defined in Rule 16(b)(3) of the Maine Rules of Criminal Procedure, as long as the communications would otherwise be open to inspection and release if in the possession or custody of the Department of the Attorney General or the office of a district attorney.

**14. Access to report documents.** Report documents, as defined in section 3035, subsection 2, in the possession or custody of a medical examiner or the Office of the Chief Medical Examiner constitute investigative information. Release and inspection are governed by Title 16, section 614. Release and inspection are also contingent upon the person's request specifying a specific decedent or decedents and the payment of any required fee under section 3035.

**15. Testing for HIV.** Notwithstanding Title 5, chapter 501, the Chief Medical Examiner in a medical examiner case may test for the human immunodeficiency virus and may disclose the test result as authorized under subsection 12.

**Sec. 6. 22 MRSA §3022**, as amended by PL 1997, c. 643, Pt. G, §1, is further amended by adding at the end a new paragraph to read:

As used in subsections 10, 12, 13 and 14, "person" means a natural person, including a public servant, or a corporation, partnership, unincorporated association or other legal entity, including a governmental unit.

See title page for effective date.

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## CHAPTER 222

H.P. 1258 - L.D. 1705

### An Act to Make Certain Technical and Clarifying Changes to the Medical Examiner Act

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

**Sec. 1. 22 MRSA §3022, sub-§1**, as repealed and replaced by PL 1987, c. 329, §2, is amended to read:

**1. Appointment and qualifications of the Chief Medical Examiner.** There is created, in the Department of the Attorney General, the Office of Chief Medical Examiner for the State. The Chief Medical Examiner ~~shall be~~ is appointed by the Governor for a term of 7 years and until ~~his~~ the Chief Medical Examiner's successor is appointed and qualified. The Chief Medical Examiner ~~shall~~ must possess a degree of doctor of medicine or doctor of osteopathy, be licensed to practice in the State and be expert in the specialty of forensic pathology. Expertise in the specialty of forensic pathology may be established either by certification in forensic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or by successful completion of an examination to test expertise in forensic pathology designed for the State by acknowledged experts in the field selected by the Governor. Any vacancy in the Office of Chief Medical Examiner ~~shall~~ must be filled by appointment by the Governor for a full term of 7 years. The Chief Medical Examiner may hire, subject to the Civil Service Law, necessary office and laboratory personnel to carry out the proper functioning of ~~his~~ the Chief Medical Examiner's office.

**Sec. 2. 22 MRSA §3023**, as amended by PL 1985, c. 611, §5, is further amended to read: