

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

Personal Services	\$167,106	\$236,277
All Other	\$15,087	\$13,599
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OTHER SPECIAL	\$182,193	\$249,876
REVENUE FUNDS TOTAL		

See title page for effective date.

CHAPTER 318

H.P. 1321 - L.D. 1889

An Act To Protect the Lives and Health of Members of the Maine National Guard

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, members of the Maine National Guard are being sent into military conflicts throughout the world; and

Whereas, the health and lives of Maine National Guard members are at constant risk; and

Whereas, it is essential to reduce these risks as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §12004-G, sub-§26-F is enacted to read:

26-F.

<u>Maine National Guard</u>	<u>Commission to Protect the Lives and Health of Members of the Maine National Guard</u>	<u>Legislative Per Diem and Expenses</u>	<u>37-B MRSA §532</u>
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Sec. 2. 22 MRSA §255-A is enacted to read:

§255-A. Commission to Protect the Lives and Health of Members of the Maine National Guard

The commissioner, through the Director of the Maine Center for Disease Control and Prevention, shall provide for assistance to the Commission to Protect the Lives and Health of Members of the Maine National Guard in order for the commission to achieve the purpose for which it is created in Title 37-B, chapter 8-A. The Director of the Maine Center for Disease Control and Prevention and the Commissioner of Defense, Veterans and Emergency Management shall coordinate their resources, including staff assistance, to the commission and cooperate under the direction of the commission to provide a higher standard of preventative health care for members of the Maine National Guard.

Sec. 3. 37-B MRSA c. 8-A is enacted to read:

CHAPTER 8-A

COMMISSION TO PROTECT THE LIVES AND HEALTH OF MEMBERS OF THE MAINE NATIONAL GUARD

§531. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Center for disease control. "Center for disease control" means the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

2. Commission. "Commission" means the Commission to Protect the Lives and Health of Members of the Maine National Guard established in section 532.

3. Maine National Guard. "Maine National Guard" includes the Maine Army National Guard and the Maine Air National Guard.

§532. Commission to Protect the Lives and Health of Members of the Maine National Guard; established

The Commission to Protect the Lives and Health of Members of the Maine National Guard is established.

1. Composition of commission. The commission consists of:

- A. The Adjutant General, who serves ex officio;
- B. The director of the center for disease control, who serves ex officio;
- C. The Director of the Bureau of Maine Veterans' Services, who serves ex officio;

D. A physician licensed in the State with experience and knowledge of preventive care, appointed by the President of the Senate from a list provided by the Maine Medical Association or its successor organization;

E. A pharmacist licensed in the State, appointed by the Speaker of the House;

F. A retired Maine veteran who has served in a war zone, appointed by the Speaker of the House;

G. A family member of a deceased military person from the State who died from a noncombat cause while serving in a military capacity, appointed by the Governor;

H. A disabled Maine military person with a major noncombat disability suffered while serving in a military capacity, appointed by the President of the Senate; and

I. A psychologist licensed in the State, appointed by the Governor.

2. Advisory members. The Chief Medical Examiner within the Attorney General's office shall serve as a nonvoting advisory member. The Director of the Department of Veterans Affairs Medical at Togus Hospital or the director's designee may serve as a nonvoting advisory member.

3. Terms. Each commission member must be appointed to a 3-year term, except ex officio members, except that the terms of the initial members are staggered as follows.

A. The initial appointments made by the President of the Senate are for 3 years. The initial appointment of the retired veteran made by the Speaker of the House pursuant to subsection 1, paragraph F is for 2 years. The initial appointment of the family member of a deceased military person who died from a noncombat cause pursuant to subsection 1, paragraph G is for 2 years. The initial appointments of the psychologist and the pharmacist are for one year. All appointments after the initial appointments are for 3 years.

B. Ex officio members shall serve on the commission as long as they hold their offices. Other members serve until their replacements have been appointed. Members may be reappointed following the expirations of their terms.

4. Chair. The Governor shall appoint the chair of the commission from among its membership, who may not be an ex officio member of the commission.

5. Compensation. Members of the commission, except ex officio members, are paid a per diem and compensated for expenses at the same rates provided to Legislators under Title 5, chapter 379.

§533. Responsibilities of the commission

1. Responsibilities. The commission, with assistance from the department and the center for disease control, shall:

A. Review all the preventive health care treatment practices and protocols, including, but not limited to, physical and emotional screenings, vaccinations, electrocardiograms and physical examinations as they apply to members of the Maine National Guard in different age groups;

B. Review the vaccinations and other medications currently provided to members of the Maine National Guard, particularly those that produce allergic reactions and dangerous side effects, and compare the vaccinations and medications with those recommended by the National Institutes of Health, the United States Food and Drug Administration and other sources of standards of medical care;

C. Propose recommendations and seek approval from the Armed Forces of the United States for safer health care practices and protocols to be administered to members of the Maine National Guard;

D. Propose and seek approval from the Armed Forces of the United States for the Maine National Guard to retain a copy of the medical records of each member of the Maine National Guard who is sent to active duty;

E. Provide for the education of members of the Maine National Guard and other military personnel, especially medical staff, with respect to safer and more effective health care practices and protocols;

F. Assist the families of Maine National Guard members who died in military service from noncombat causes, including suicide, to obtain accurate and timely information in regard to the deaths of the Maine National Guard members;

G. Provide for the cooperation and coordination of assistance between the Maine National Guard and the center for disease control with respect to this chapter;

H. Work with the Bureau of Maine Veterans' Services to track the care of the physically and psychologically wounded Maine National Guard and Armed Forces service members from Maine within the health care systems of the United States Department of Defense and the United States Department of Veterans Affairs and serve as an advocate to ensure a high quality of care; and

I. Assist the Maine National Guard in ensuring appropriate demobilization procedures and follow-up for Maine National Guard members re-

lated to mental health issues, including, but not limited to, substance abuse and post-traumatic stress disorder.

2. Commission reports and recommendations.

The commission shall report its findings and recommendations, including any necessary legislation, to the Governor and the joint standing committees of the Legislature having jurisdiction over legal and veterans affairs and health and human services matters.

A. The commission shall prepare a preliminary report for the Governor and Legislature regarding its efforts under this section by April 1, 2008.

B. The commission shall issue a complete report regarding its efforts under this section by December 15, 2008 and annually by December 15th thereafter.

§534. Meetings of the commission; public hearing

The commission shall meet at least 4 times a year, including at least one public hearing a year at which Maine National Guard members and their families, former Maine National Guard members and their families and members of the public may testify and present concerns and recommendations for the commission to consider.

§535. Assistance from state agencies

The Commissioner of Defense, Veterans and Emergency Management and the Commissioner of Health and Human Services through the center for disease control shall coordinate their resources and provide assistance, including staff assistance, research, reports and other assistance, to the commission in order to provide a higher standard of preventive care to members of the Maine National Guard.

Sec. 4. Purpose. The intent of this Act is to provide higher and safer standards for preventative medical practices and health screenings administered to members of the Maine National Guard than currently exist and to encourage the federal military forces to adopt these higher standards. It is also the intent of this Act to prevent future noncombat deaths and injuries of military personnel by creating the Commission to Protect the Lives and Health of Members of the Maine National Guard and by directing the Maine National Guard and the Maine Center for Disease Control and Prevention to take such action as necessary to accomplish this purpose including coordination and cooperation between these 2 agencies.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 18, 2007.

**CHAPTER 319
S.P. 669 - L.D. 1855**

**An Act To Clarify Involuntary
Admissions for Psychiatric
Hospitalizations**

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

Sec. 1. 34-B MRSA §3801, sub-§1, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. 2. 34-B MRSA §3801, sub-§7, as enacted by PL 1983, c. 459, §7, is amended to read:

7. Patient. "Patient" means a person under observation, care or treatment in a psychiatric hospital or residential care facility pursuant to this subchapter or a person being evaluated for emergency admission under section 3863 in a hospital emergency department.

Sec. 3. 34-B MRSA §3801, sub-§7-B is enacted to read:

7-B. Psychiatric hospital. "Psychiatric hospital" means:

- A. A state mental health institute; or
- B. A nonstate mental health institution.

Sec. 4. 34-B MRSA §3802, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Visitation. Visit each psychiatric hospital or residential care facility regularly to review the commitment procedures of all new patients admitted between visits and visit other hospitals as necessary to review protocols and procedures related to certification of patients under section 3863;

Sec. 5. 34-B MRSA §3803, as enacted by PL 1983, c. 459, §7, is amended to read:

§3803. Patient's rights

A patient in a psychiatric hospital or residential care facility under this subchapter has the following rights.

1. Civil rights. Every patient is entitled to exercise all civil rights, including, but not limited to, the right to civil service status, the right to vote, rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, the right to enter into contractual relationships and the right to manage ~~his~~ the patient's property, unless:

- A. The chief administrative officer of the psychiatric hospital or residential care facility determines that it is necessary for the medical welfare of the patient to impose restrictions on the exercise of these rights and, if restrictions are imposed, the restrictions and the reasons for them