

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Establish a Forensic Case Review Panel To Advise the Department of Health and Human Services

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

Sec. 1. 34-B MRSA §3011 is enacted to read:

§ 3011. Forensic case review panel

The department shall establish a forensic case review panel in accordance with this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Forensic case" means an instance in which a current or former consumer of mental health services in this State directly caused serious injury or death to another person in this State.

B. "Panel" means the forensic case review panel established under this section.

C. "Panel coordinator" means an employee of the department who is appointed by the commissioner to perform the duties under subsection 3. The panel coordinator must be a physician or psychologist or other mental health care professional licensed or registered in this State.

D. "Serious injury" means significant psychological or physical injury resulting in impairment of mental or physical function.

2. Membership. The panel consists of mental health professionals, mental health advocates, public safety officials, members of the state judiciary and other persons with professional expertise in mental health services. The commissioner shall appoint the members of the panel, who serve at the pleasure of the commissioner, and shall appoint a panel coordinator to provide staffing assistance to the panel as needed.

3. Duties and powers of panel coordinator. The panel coordinator has the duties and powers set forth in this subsection.

A. The panel coordinator shall review all forensic cases. The panel coordinator shall ensure that a review does not interfere with any pending criminal investigation or prosecution by state or county authorities.

B. In reviewing forensic cases under paragraph A, the panel coordinator or the panel coordinator's designee may conduct voluntary interviews with persons associated with forensic cases, including family members of a deceased or injured person. The purpose of a voluntary interview is limited to gathering information or data for the purposes of the panel in summary form. A person who conducts interviews under this paragraph must meet the qualifications for panel coordinator and also have

professional experience or training in bereavement services. A person conducting an interview under this paragraph may make a referral for bereavement counseling for relevant persons in the case of a deceased person.

C. The panel coordinator shall prepare a summary of relevant information regarding a forensic case, including information about the deceased or injured person and the current or former consumer of mental health services, and shall present the summary to the panel.

4. Duties and powers of panel. The panel:

A. May determine which of the cases presented it will consider, if any, and shall conduct comprehensive multidisciplinary reviews of data presented by the panel coordinator in those cases; and

B. Shall present an annual report to the department and to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The report must identify factors contributing to the deaths and injuries reviewed, determine the strengths and weaknesses of the current mental health care delivery system in this State and make recommendations to the department to decrease the rate of death and serious injury directly caused by current or former consumers of mental health services in this State.

5. Confidentiality. All records created or maintained pursuant to this section, other than reports provided under subsection 4, paragraph B, are protected as provided in this subsection. The records are confidential under Title 22, section 42, subsection 5. The records are not open to public inspection, are not public records for the purposes of Title 1, chapter 13, subchapter 1 and are not subject to subpoena or civil process nor admissible in evidence in connection with any judicial, executive, legislative or other proceeding. All members of the panel are obliged to maintain confidentiality of any information received in the course of their membership, both during such membership and thereafter. Any person who violates any provision of this subsection commits a Class D crime punishable by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

6. Immunity. A health care practitioner, hospital or health care facility or the employee or agent of that person or entity is not subject to civil or criminal liability arising from the disclosure or furnishing of records or information to the panel pursuant to this section.

7. Funding. The department may accept any public or private funds to carry out the purposes of this section.

8. Rulemaking. The department shall adopt rules to implement this section, including rules on collecting information and data, selecting members of the panel, collecting and using individually identifiable health information and conducting reviews under this section. The rules must ensure that access to individually identifiable health information is restricted as much as possible while enabling the panel to accomplish its work. The rules must establish a protocol to preserve confidentiality, specify the manner in which authorized representatives may be contacted for permission and maintain public confidence in the protection of individually identifiable information. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill establishes a forensic case review panel whose members are appointed by the Commissioner of Health and Human Services. The purpose of the panel is to study certain cases in which a current or former consumer of mental health services in this State caused serious injury or death to another while in this State and to report to the Department of Health and Human Services and the Legislature on factors contributing to the deaths and injuries reviewed and the strengths and weaknesses of the current mental health care delivery system and include recommendations to decrease the rate of death and serious injury directly caused by current or former consumers of mental health services in this State.