

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

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

Sec. 1. 25 MRSA §3701, sub-§8 is enacted to read:

8. Catastrophic illness. "Catastrophic illness" means an unforeseen, prolonged and extended illness, medical condition or injury that will likely cause death or permanent disability as determined by a licensed physician whose determination must be in writing.

Sec. 2. 25 MRSA §3701, sub-§9 is enacted to read:

9. Designated public benefit corporation. "Designated public benefit corporation" means a "public benefit corporation," as described in Title 13-B, section 1406, subsection 1, that does not employ or have on its board of directors any certified law enforcement officer and that has entered into an agreement with a law enforcement agency or law enforcement association as provided in section 3702-C.

Sec. 3. 25 MRSA §3701, sub-§10 is enacted to read:

10. Immediate family member. "Immediate family member" means a law enforcement officer's spouse, domestic partner, child or legal dependent.

Sec. 4. 25 MRSA §3702-C, as enacted by PL 2005, c. 397, Pt. C, §19, is amended to read:

§ 3702-C. Solicitation unlawful; exceptions

Except as provided in this section, a law enforcement agency, law enforcement association, law enforcement officer or solicitation agent may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association. Any violation of this chapter constitutes a violation of the Maine Unfair Trade Practices Act.

1. Limited solicitation. A law enforcement agency or association may solicit property from the general public for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness by hosting fundraising events or by written solicitation.

A. A law enforcement agency or association may host ticketed fundraising events that are open to the public as long as the events are advertised only through public announcements and tickets are available for purchase only from a designated public benefit corporation.

B. A law enforcement agency or association may make general public solicitations for donations through public announcements or paid advertisements as long as all donations are directed to be sent to a designated public benefit corporation. Solicitations may not be sent directly to potential donors by mail or any other direct means.

2. Required notice. Any public solicitation or advertisement for a fundraising event must contain a notice that clearly identifies the name and address of the designated public benefit corporation and the law enforcement officer or immediate family member for whom the solicitation is made. The notice must also specify that any questions about the solicitation may be directed to the Office of the Attorney General.

A. A notice for a fundraising event must read: "This event is sponsored by (insert name of law enforcement agency or association) for the sole benefit of (insert name and agency). All donations made pursuant to this solicitation must be sent to the designated public benefit corporation, which may not disclose the names of donors."

B. A notice for a public solicitation must read: "This solicitation is made by (insert name of law enforcement agency or association) for the sole benefit of (insert name and agency). All donations made pursuant to this solicitation must be sent to the designated public benefit corporation, which may not disclose the names of donors."

3. Standardized written agreement. Prior to engaging in any solicitation activity under this section, a law enforcement agency or a law enforcement association and a designated public benefit corporation must enter into a signed written agreement that specifies the obligations of each party. The Office of the Attorney General shall provide a standardized written agreement that must be used by the parties.

4. No disclosure of donors. A designated public benefit corporation that engages in solicitation pursuant to this section may not disclose the names of any donors to any person, except to the Attorney General.

5. Limited reimbursement. The law enforcement agency or law enforcement association may reimburse the designated public benefit corporation only for its advertising costs and may not otherwise pay the designated public benefit corporation for its services provided under this section.

6. Registration and reporting. Each party to the written agreement shall comply with all requirements for reporting to and registration with the Department of Professional and Financial Regulation as a charitable organization, or as a charitable organization that is exempt from registration, pursuant to the Charitable Solicitations Act and shall comply with any other reporting and registration requirements related to the event or solicitation.

7. Escrow account. All funds collected by the designated public benefit corporation under this section must be held in an escrow account pursuant to this subsection.

A. The escrow account must be established by the designated public benefit corporation in a bank or trust company authorized to do business in this State within the meaning of Title 9-B, section 131, subsection 2. The funds deposited in the escrow account must be kept and maintained in an account separate from any other accounts.

B. Checks, drafts and money orders from donors may be made payable only to the bank or trust company described in paragraph A.

C. Funds deposited in the escrow account are not subject to any liens or charges by the escrow agent or judgments, garnishments or creditor's claims against the designated public benefit corporation or beneficiary.

D. The funds may be paid only to the beneficiary, or to the heirs of the beneficiary if the beneficiary dies, and must be paid within 30 days of the conclusion of the event or written solicitation.

8. Accounting. Upon request, the designated public benefit corporation shall provide an accounting of the funds received from the event or written solicitation and any documents related to the fundraising event or solicitation, including the names of the donors, to the Attorney General. The Attorney General may enforce application of funds given or appropriated to public charities and prevent breaches of trust in their administration, pursuant to Title 5, section 194, subsection 2.'

SUMMARY

This amendment replaces the bill and creates a narrowly tailored exception to the law enforcement solicitation law by allowing only specific fundraising events and solicitations in which law enforcement is removed from direct contact with the potential donors. Specifically, the amendment does the following.

1. It defines "catastrophic illness," "designated public benefit corporation" and "immediate family member" for purposes of the amendment.

2. It provides that a law enforcement agency or law enforcement association may solicit property from the general public for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness in 2 specific ways. First, a law enforcement agency or association may post advertisements in a public setting for a fundraising event, the tickets for which are available for purchase only from a designated public benefit corporation. Second, a law enforcement agency or association may make a public plea for donations through advertisements provided that all donations are sent directly to a designated public benefit corporation. Solicitations may not be sent directly to potential donors. Every solicitation must contain a notice identifying the designated public benefit corporation, its address and the law enforcement officer or the officer's immediate family member for whom the solicitation is made. The notice must also specify that any questions about the solicitation may be directed to the Office of the Attorney General.

3. It requires a law enforcement agency or law enforcement association and a designated public benefit corporation to sign a written agreement prior to engaging in any solicitation activity. The Office of the Attorney General shall provide a standardized written agreement that must be used.

4. It specifies that a designated public benefit corporation that engages in solicitation pursuant to the Maine Revised Statutes, Title 25, section 3702-C may not disclose the names of any donors to any person, except to the Attorney General.

5. It permits a law enforcement agency or law enforcement association to reimburse a designated public benefit corporation only for its printing costs and prohibits any other payment to the designated public benefit corporation for its services.

6. It requires that the parties to the written agreement comply with all requirements for reporting to, and registration with, the Department of Professional and Financial Regulation as a charitable organization, or as a charitable organization that is exempt from registration, pursuant to the Charitable Solicitations Act. It also requires the parties to comply with all other requirements related to the event or solicitation.

7. It requires that all funds collected by the designated public benefit corporation under this section be held in an escrow account that is separate from any other accounts. Checks, drafts and money orders from donors may be made payable only to the bank or trust company. Funds deposited in the escrow account are not subject to any liens or charges by the escrow agent or judgments, garnishments or creditor's claims against the designated public benefit corporation or beneficiary of the solicitations.

8. It specifies that the funds may be paid only to the beneficiary, or to the heirs of the beneficiary if the beneficiary dies, within 30 days of the conclusion of the event or written solicitation.

9. It requires that, upon request, a designated public benefit corporation provide an accounting of the funds received from the event or written solicitation and any documents related to the fundraising event or solicitation, including the names of the donors, only to the Attorney General, who is vested with authority to enforce due application of funds given, or appropriated, to public charities and to prevent breaches of trust in their administration.

FISCAL NOTE REQUIRED

(See attached)