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Legislative Document

No. 1219

H.P. 879

House of Representatives, March 12, 2019

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

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative EVANGELOS of Friendship.
Cosponsored by Senator LIBBY of Androscoggin and
Representatives: COLLINGS of Portland, PLUECKER of Warren, RECKITT of South
Portland, RISEMAN of Harrison, TALBOT ROSS of Portland, WARREN of Hallowell,
Senators: CHIPMAN of Cumberland, MIRAMANT of Knox.

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

2 **Sec. 1. 5 MRSA §12004-J, sub-§18** is enacted to read:

3 **18.**

4 <u>Public Safety</u>	<u>Independent Board</u>	<u>Expenses Only</u>	<u>25 MRSA §3851</u>
5	<u>To Review Law</u>		
6	<u>Enforcement</u>		
7	<u>Officer-involved</u>		
8	<u>Deaths</u>		

9 **Sec. 2. 14 MRSA §8102, sub-§1**, as amended by PL 2003, c. 489, §1, is further
10 amended to read:

11 **1. Employee.** "Employee" means a person acting on behalf of a governmental entity
12 in any official capacity, whether temporarily or permanently, and whether with or without
13 compensation from local, state or federal funds, including elected or appointed officials;
14 volunteer firefighters as defined in Title 30-A, section 3151; emergency medical service
15 personnel; members and staff of the Consumer Advisory Board pursuant to Title 34-B,
16 section 1216; members of the Maine National Guard but only while performing state
17 active service pursuant to Title 37-B; sheriffs' deputies as defined in Title 30-A, section
18 381 when they are serving orders pursuant to section 3135; members of the Independent
19 Board To Review Law Enforcement Officer-involved Deaths pursuant to Title 25, section
20 3851; and persons while performing a search and rescue activity when requested by a
21 state, county or local governmental entity, but the term "employee" does not mean a
22 person or other legal entity acting in the capacity of an independent contractor under
23 contract to the governmental entity.

24 **Sec. 3. 25 MRSA c. 411** is enacted to read:

25 **CHAPTER 411**

26 **INDEPENDENT BOARD TO REVIEW LAW ENFORCEMENT OFFICER-**
27 **INVOLVED DEATHS**

28 **§3851. Independent Board To Review Law Enforcement Officer-involved Deaths**

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

31 A. "Board" means the Independent Board To Review Law Enforcement Officer-
32 involved Deaths.

33 B. "Law enforcement agency" has the same meaning as in section 3701, subsection
34 1.

35 C. "Law enforcement officer" has the same meaning as in section 3701, subsection 3
36 and includes a corrections officer, as defined in section 2801-A, subsection 2.

1 D. "Officer-involved death" means a death of an individual that results directly from
2 the act or omission of a law enforcement officer while the officer is on duty or while
3 the officer is off duty but performing activities that are within the scope of the
4 officer's duties.

5 **2. Independent Board To Review Law Enforcement Officer-involved Deaths**
6 **established.** The Independent Board To Review Law Enforcement Officer-involved
7 Deaths, as established in Title 5, section 12004-J, subsection 18, is an independent board
8 responsible for reviewing investigations of incidents of officer-involved death.

9 **3. Membership of board; appointment.** The board consists of 7 members
10 appointed by the Attorney General as follows:

11 A. Two employees in the Office of the Attorney General;

12 B. Two persons recommended by a recognized statewide organization representing
13 criminal defense attorneys;

14 C. One member of the clergy recommended by a recognized statewide
15 nondenominational organization representing religious interests;

16 D. One person recommended by the Maine Sheriffs' Association or successor
17 organization; and

18 E. One person recommended by a nationally recognized organization that advocates
19 for civil rights and minorities.

20 **4. Term; chair.** Members are appointed to serve a 3-year term. The members shall
21 elect one member to serve as chair for at least a 2-year term.

22 **5. Staff assistance; support.** The Office of the Attorney General shall provide
23 necessary staff assistance and administrative support to the board.

24 **6. Compensation.** A member of the board serves without compensation but must be
25 reimbursed for expenses, including travel expenses, incurred in the performance of the
26 member's duties.

27 **7. Duties.** In a case of an officer-involved death, the board shall determine the facts
28 of the incident, including reviewing all notes, data and reports of the law enforcement
29 officer and the law enforcement agency involved in or responding to the incident;
30 interviewing witnesses and experts; and collecting other information concerning the
31 incident that the board determines relevant. The board may collaborate with or seek
32 guidance from other state and federal law enforcement agencies with experience in
33 officer-involved deaths, including an incident review team convened by the Maine
34 Criminal Justice Academy. After reviewing the information the board determines
35 relevant, the board shall issue recommendations to the prosecuting attorney of the county
36 in which the incident occurred or, if the prosecuting attorney is the Attorney General, the
37 Attorney General within 90 days of the incident unless the board requests an extension of
38 time from the Attorney General. The board shall also issue a public report with its
39 findings and recommendations that the Attorney General shall publish on its publicly
40 accessible website.

