

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
S.P. 365 - L.D. 1039

An Act To Amend the Polygraph Examiners Act

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

Sec. 1. 32 MRSA §7352, sub-§§2-A and 5-A are enacted to read:

2-A. Criminal justice agency. "Criminal justice agency" has the same meaning as in Title 16, section 803, subsection 4.

5-A. Polygraph examination. "Polygraph examination" means an examination conducted by a polygraph examiner that consists of a pre-test phase, an in-test phase and a post-test phase.

Sec. 2. 32 MRSA §7365, sub-§1, as enacted by PL 2013, c. 316, §3 and affected by §5, is amended to read:

1. Disclosure prohibited. A polygraph examiner, ~~intern or employee of a polygraph examiner~~ may not disclose information acquired from a polygraph examination, or records resulting from a polygraph examination, to another person other than:

- A. The subject of the examination or the subject's attorney;
- B. Any other person specifically designated in writing by the subject of the examination;
- C. A member or agent of the department that licenses a polygraph examiner ~~or law enforcement agency that supervises or controls a polygraph examiner's activities~~ examiners;
- C-1. A member or agent of a criminal justice agency that employs or contracts with the polygraph examiner.
- C-2. A member or agent of a criminal justice agency, if the polygraph examiner conducts a polygraph examination in the course of a criminal investigation;
- D. Another licensed polygraph examiner in private, professional consultation; ~~or~~
- D-1. A person employed by or working as an intern with the polygraph examiner;

D-2. The Maine Criminal Justice Academy and its board of trustees, if the subject of the polygraph examination is an applicant for admission to the academy or for law enforcement certification that is being considered by the academy or board;

E. The Department of Health and Human Services pursuant to section 7361, subsection 1, paragraph F; or

F. As otherwise required or authorized by law.

Sec. 3. 32 MRSA §7365, sub-§§2 and 4, as enacted by PL 2013, c. 316, §3 and affected by §5, are amended to read:

2. Further disclosure prohibited. A polygraph examiner or other person to whom information acquired from a polygraph examination is disclosed under subsection 1 may not further disclose the information or records, except as otherwise required or authorized by law.

4. Records in custody of commissioner. Records in the custody of the commissioner pursuant to this chapter are confidential if those records contain:

A. Personal medical information of an applicant or licensee under this chapter; or

B. Personally identifying information of a minor to whom a polygraph examination has been administered.

Nothing in this chapter prohibits the use of statements or disclosures voluntarily made by the subject of a polygraph examination from being used in the course of a criminal investigation or prosecution, to the fullest extent permitted by law.

Sec. 4. 32 MRSA §7367 is enacted to read:

§7367. Examination considered complete

A person to whom a polygraph examination is administered is considered to have taken the polygraph examination if the person participates to any extent in the formalities of the pre-test phase of the polygraph examination.

Sec. 5. 32 MRSA §7381, sub-§1, ¶B, as enacted by PL 2013, c. 316, §3 and affected by §5, is repealed and the following enacted in its place:

B. Be accompanied by a nonrefundable fee in the amount of:

(1) For an initial polygraph examiner license, \$100;

(2) For a renewal of a polygraph examiner license, \$100; and

(3) For a polygraph examiner intern license, \$50.

Sec. 6. 32 MRSA §7381, sub-§2, as enacted by PL 2013, c. 316, §3 and affected by §5, is amended to read:

2. Term of initial and renewal polygraph examiner license. A An initial polygraph examiner license is issued valid for a 2-year term period of 2 years and may be renewed. Each renewal polygraph examiner license is valid for a period of 4 years.

Sec. 7. 32 MRSA §7382, sub-§1, as enacted by PL 2013, c. 316, §3 and affected by §5, is amended to read:

1. Qualifications. A person is qualified for a polygraph examiner license if the person:

A. Has not been convicted of a crime for which a license may be denied under Title 5, chapter 341;

B. Either:

(1) Holds a baccalaureate degree from ~~a~~ an accredited college or university ~~accredited by an organization recognized by the commissioner~~; or

(2) Has at least 5 years of ~~active investigative~~ experience ~~with~~ including 3 years on a full-time basis, as a sworn member of an investigative service of the United States as a sworn member of a branch of the United States Armed Forces, a federal investigative agency or a law enforcement agency immediately preceding the date of application;

C. Is a graduate of a commissioner-approved polygraph examiner course and has satisfactorily completed at least 6 months of a polygraph examiner internship; and

D. Has passed an examination ~~approved by the commissioner~~ to determine the person's ~~competency for a license~~ knowledge relevant to being a licensed polygraph examiner in the State.