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FIRST REGULAR SESSION-2017

Legislative Document

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H.P. 1036

House of Representatives, April 25, 2017

An Act To Protect the Health and Safety of First Responders

Submitted by the Department of Public Safety pursuant to Joint Rule 204.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HARRINGTON of Sanford.

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

2 **Sec. 1. 17-A MRSA §752-F** is enacted to read:

3 **§752-F. Willful exposure of a first responder to body fluids**

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

6 A. "Aggressive blood-borne pathogen" means a blood-borne pathogen whose
7 pathology is such that a person who has been exposed to the pathogen must receive
8 medical treatment to have a chance to effectively neutralize the pathogen.

9 B. "Body fluids" means body fluids that are excreted or secreted from the body,
10 including, but not limited to, urine, feces, blood or saliva.

11 C. "Emergency medical care provider" has the same meaning as in section 752-C,
12 subsection 2.

13 D. "Firefighter" has the same meaning as in section 752-E, subsection 2.

14 E. "First responder" means a law enforcement officer, firefighter or emergency
15 medical care provider.

16 2. A person is guilty of willful exposure of a first responder to body fluids if the
17 person, knowing the person is infected with an aggressive blood-borne pathogen,
18 intentionally, knowingly or recklessly causes any of the person's body fluids to be
19 exposed to a first responder while the first responder is performing official duties.

20 3. Willful exposure of a first responder to body fluids is a Class C crime.

21 **Sec. 2. 22 MRSA §832-A** is enacted to read:

22 **§832-A. Emergency blood-borne pathogen testing**

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

25 A. "Aggressive blood-borne pathogen" means a blood-borne pathogen whose
26 pathology is such that a person who has been exposed to the pathogen must receive
27 medical treatment to have a chance to effectively neutralize the pathogen.

28 B. "Body fluids" means body fluids that are excreted or secreted from the body,
29 including, but not limited to, urine, feces, blood or saliva.

30 C. "Emergency medical care provider" has the same meaning as in Title 17-A,
31 section 752-C, subsection 2.

32 D. "Firefighter" has the same meaning as in Title 17-A, section 752-E, subsection 2.

33 E. "First responder" means a law enforcement officer, firefighter or emergency
34 medical care provider.

1 F. "Law enforcement officer" has the same meaning as in Title 17-A, section 2,
2 subsection 17.

3 **2. Immediate testing.** Notwithstanding any other provision of law, when a first
4 responder has been exposed to a person's body fluids in the course of the first responder's
5 official duties, the person who has exposed that person's body fluids to the first responder,
6 upon being served with a search warrant issued by a justice of the Superior Court, a judge
7 of the District Court or a justice of the peace, shall immediately submit to, and a medical
8 provider shall administer, a blood-borne pathogen test to test for aggressive blood-borne
9 pathogens. If there is reasonable cause to suspect that the person's body fluids might
10 contain an aggressive blood-borne pathogen, a justice of the Superior Court, a judge of
11 the District Court or a justice of the peace may issue a search warrant to compel the
12 person to submit to testing.

13 **3. Results.** A medical provider administering a blood-borne pathogen test pursuant
14 to subsection 2 shall immediately provide the results of the test to the first responder who
15 was exposed to the body fluids, or the first responder's designee.

16 **4. Subsequent testing.** Subsequent testing arising out of the same incident of
17 exposure described in subsection 2 must be conducted in accordance with section 832. If
18 additional immediate testing is required, the testing must be performed pursuant to
19 subsection 2.

20 SUMMARY

21 This bill makes it a crime for a person, knowing the person is infected with an
22 aggressive blood-borne pathogen, to intentionally, knowingly or recklessly cause any of
23 the person's body fluids to be exposed to a first responder while the first responder is
24 performing official duties.

25 The bill also requires a person who has exposed that person's body fluids to a first
26 responder in the course of the first responder's official duties to submit to a blood-borne
27 pathogen test to test for aggressive blood-borne pathogens. If there is reasonable cause to
28 suspect that the person's body fluids might contain such a pathogen, a justice, judge or
29 justice of the peace may issue a search warrant to compel the person to submit to testing.
30 Subsequent testing arising out of the same incident of exposure may also be conducted.