

**CHAPTER 711****MEDICAL EXAMINER ACT****§3021. Title**

This chapter shall be referred to as the Medical Examiner Act. [PL 1967, c. 534, §2 (NEW).]

**SECTION HISTORY**

PL 1967, c. 534, §2 (NEW).

**§3022. Office of Chief Medical Examiner**

**1. Appointment and qualifications of the Chief Medical Examiner.** There is created, in the Department of the Attorney General, the Office of Chief Medical Examiner for the State. The Chief Medical Examiner is appointed by the Governor for a term of 7 years and until the Chief Medical Examiner's successor is appointed and qualified. The Chief Medical Examiner must possess a degree of doctor of medicine or doctor of osteopathy, be licensed to practice in the State and be expert in the specialty of forensic pathology. Expertise in the specialty of forensic pathology may be established either by certification in forensic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or by successful completion of an examination to test expertise in forensic pathology designed for the State by acknowledged experts in the field selected by the Governor. Any vacancy in the Office of Chief Medical Examiner must be filled by appointment by the Governor for a full term of 7 years. The Chief Medical Examiner may hire, subject to the Civil Service Law, necessary office and laboratory personnel to carry out the proper functioning of the Chief Medical Examiner's office.

[PL 2001, c. 222, §1 (AMD).]

**2. Appointment and qualifications of the Deputy Chief Medical Examiner.** The Chief Medical Examiner may select one or more of the medical examiners to serve as deputy chief medical examiners. The Deputy Chief Medical Examiner serves at the pleasure of the Chief Medical Examiner and, if salaried, is unclassified. The salary of the Deputy Chief Medical Examiner must be set in accordance with Title 5, section 196. In the event of the Deputy Chief Medical Examiner's temporary absence, the Chief Medical Examiner or, if the Chief Medical Examiner is unavailable, the Attorney General may designate one of the deputy chief medical examiners to serve as acting Chief Medical Examiner. The acting Chief Medical Examiner has all of the powers and responsibilities of the Chief Medical Examiner.

[PL 2017, c. 284, Pt. DDD, §2 (AMD).]

**2-A. Appointment of office administrator.** The Chief Medical Examiner may appoint one office administrator who shall serve at the pleasure of the Chief Medical Examiner. The office administrator shall perform such duties as may be delegated by the Chief Medical Examiner. Notwithstanding any other provisions of law, the compensation of the Chief Medical Examiner's office administrator must be fixed by the Chief Medical Examiner.

[PL 1997, c. 1, Pt. E, §1 (NEW).]

**3. Certification and completion of reports of deaths.** The Office of Chief Medical Examiner is responsible for certification and completion of reports of deaths identified as medical examiner cases by section 3025. This must be accomplished by examination of bodies and useful objects and by investigation and inquiry into the circumstances surrounding the deaths. The Office of Chief Medical Examiner may compile and preserve records and data relating to criminal prosecution, public health, public safety and vital statistics, as these relate to the Chief Medical Examiner's responsibilities.

[RR 2021, c. 2, Pt. B, §149 (COR).]

**4. Judgments of the medical examiners.** Judgments of the medical examiners as to the identity of the deceased and the cause, manner, date, time and place of death shall be made with reasonable care based on a preponderance of the evidence.

[PL 1987, c. 329, §2 (RPR).]

**5. Custodian of records.** The Chief Medical Examiner shall be the custodian of the records of the Office of Chief Medical Examiner. Copies of those records not declared confidential in subsection 8 shall be available upon written request.

[PL 1987, c. 329, §2 (RPR).]

**6. Certificate as evidence.** Notwithstanding any other provision of law or rule of evidence, the certificate of the Chief Medical Examiner, under seal of the State, must be received in any court as prima facie evidence of any fact stated in the certificate or documents attached to the certificate. The certificate under the seal must be presumed to be that of the Chief Medical Examiner. A facsimile of the signature of the Chief Medical Examiner imprinted on any certificate described in this subsection has the same validity as the Chief Medical Examiner's written signature and is admissible in court.

[RR 2021, c. 2, Pt. B, §150 (COR).]

**7. Medical records provided.** In any medical examiner case, upon oral or written request of the medical examiner, any individual, partnership, association, corporation, institution or governmental entity that has rendered treatment pertaining to the medical examiner case shall as soon as practicable provide the medical examiner with all medical records pertaining to the person and the treatment provided. No individual, partnership, association, corporation, institution, governmental entity or employee or agent of a governmental entity may be criminally or civilly responsible for furnishing any medical records in compliance with this subsection.

[PL 1991, c. 723 (AMD).]

**8. Certain information confidential.** The following records in the possession or custody of a medical examiner or the Office of Chief Medical Examiner are not public records within the meaning of Title 1, section 402, subsection 3 and are confidential:

A. Medical records relating to a medical examiner case; [PL 2001, c. 221, §1 (NEW).]

B. Law enforcement agency reports or records relating to a medical examiner case; [PL 2001, c. 221, §1 (NEW).]

C. Communications with the Department of the Attorney General relating to a medical examiner case; [PL 2001, c. 221, §1 (NEW).]

D. Communications with the office of a district attorney relating to a medical examiner case; [PL 2001, c. 221, §1 (NEW).]

E. Death certificates and amendments made to the certificates, except for the information for which the medical examiner is responsible, as listed in section 2842, subsection 3, and not ordered withheld by the Attorney General relating to a medical examiner case or missing person; [PL 2001, c. 221, §1 (NEW).]

F. Photographs and transparencies, histological slides, videotapes and other like items relating to a medical examiner case; and [PL 2001, c. 221, §1 (NEW).]

G. Written or otherwise recorded communications that express or are evidence of suicidal intent obtained under section 3028, subsections 4 and 5. [PL 2001, c. 221, §1 (NEW).]

[PL 2017, c. 475, Pt. A, §33 (AMD).]

**9. Release of medical examiner's reports.**

[PL 2001, c. 221, §2 (RP).]

**10. Cooperation with research requests.** The Office of Chief Medical Examiner shall cooperate with research requests by supplying abstracted data to interested persons consistent with the available resources of the office.

[PL 2001, c. 221, §3 (AMD).]

**11. Written or recorded material expressing suicidal intent.**

[PL 2001, c. 221, §4 (RP).]

**12. Access to or dissemination of confidential records.** Except as specified in subsections 10 and 13, access to or dissemination of records made confidential under subsection 8 is limited to:

A. A criminal justice agency for the purpose of the administration of criminal or juvenile justice; [PL 2001, c. 221, §5 (NEW).]

B. A person for whom the Chief Medical Examiner determines access is necessary or desirable to carry out a duty under this Act; [PL 2001, c. 221, §5 (NEW).]

C. A person for whom the Chief Medical Examiner determines access is necessary or desirable to allow for the harvesting of a decedent's organs and other tissues; [PL 2001, c. 221, §5 (NEW).]

D. A person when authorized or required under any state or federal law, rule or regulation; and [PL 2001, c. 221, §5 (NEW).]

E. A person pursuant to a court order. [PL 2001, c. 221, §5 (NEW).]

Access to or dissemination of records as provided under paragraphs A to C can be done as a matter of course by the Chief Medical Examiner unless the Attorney General directs otherwise.

[PL 2001, c. 221, §5 (NEW).]

**13. Access to certain information by certain persons.** Unless a medical examiner case is under investigation by the Department of the Attorney General or the office of a district attorney and the Attorney General or the district attorney determines that there is a reasonable possibility that release or inspection interferes with a criminal investigation or prosecution by the disclosure:

A. Items identified in subsection 8, paragraphs F and G may be inspected and copies obtained, upon payment of any required fee under section 3035, by:

(1) A next of kin of the deceased, as defined under section 2843-A. The Chief Medical Examiner may provide the original of the items described in subsection 8, paragraph G to the next of kin or other person to whom that item is addressed or directed;

(2) An insurer that may be responsible for payment of benefits as a result of a death if relevant to the payment obligation;

(3) An attorney representing the estate of the decedent or the decedent's property if relevant to the representation; and

(4) An attorney representing a person or a person's estate and exploring a possible civil action against the estate of the decedent if relevant to the representation; and [PL 2001, c. 221, §5 (NEW).]

B. A person may inspect and obtain a copy of communications identified in subsection 8, paragraphs C and D, except work product as defined in Rule 16(a)(3) of the Maine Rules of Unified Criminal Procedure, as long as the communications would otherwise be open to inspection and release if in the possession or custody of the Department of the Attorney General or the office of a district attorney. [PL 2015, c. 431, §44 (AMD).]

[PL 2015, c. 431, §44 (AMD).]

**14. Access to report documents.** Report documents, as defined in section 3035, subsection 2, in the possession or custody of a medical examiner or the Office of Chief Medical Examiner constitute

investigative information. Release and inspection are governed by Title 16, section 804. Release and inspection are also contingent upon the person's request specifying a specific decedent or decedents and the payment of any required fee under section 3035.

[PL 2017, c. 475, Pt. A, §34 (AMD).]

**15. Testing for HIV.** Notwithstanding Title 5, chapter 501, the Chief Medical Examiner in a medical examiner case may test for the human immunodeficiency virus and may disclose the test result as authorized under subsection 12.

[PL 2001, c. 221, §5 (NEW).]

As used in subsections 10, 12, 13 and 14, "person" means a natural person, including a public servant, or a corporation, partnership, unincorporated association or other legal entity, including a governmental unit. [PL 2001, c. 221, §6 (NEW).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1973, c. 722 (AMD). PL 1975, c. 771, §219 (AMD). PL 1977, c. 59, §1 (AMD). PL 1979, c. 538, §2 (AMD). PL 1985, c. 611, §4 (RPR). PL 1985, c. 785, §B90 (AMD). PL 1987, c. 329, §2 (RPR). PL 1991, c. 339, §§1,2 (AMD). PL 1991, c. 723 (AMD). PL 1997, c. 1, §E1 (AMD). PL 1997, c. 643, §G1 (AMD). PL 2001, c. 221, §§1-6 (AMD). PL 2001, c. 222, §1 (AMD). PL 2011, c. 1, Pt. JJ, §1 (AMD). PL 2013, c. 267, Pt. B, §16 (AMD). PL 2015, c. 431, §44 (AMD). PL 2017, c. 284, Pt. DDD, §2 (AMD). PL 2017, c. 475, Pt. A, §§33, 34 (AMD). RR 2021, c. 2, Pt. B, §§149, 150 (COR).

#### **§3023. Medical examiners; appointment; jurisdiction**

The Chief Medical Examiner shall appoint medical examiners, who have statewide jurisdiction and serve at the pleasure of the Chief Medical Examiner, subject to the Chief Medical Examiner's control and the rules adopted by the Chief Medical Examiner. Medical examiners are appointed for a term of no more than 5 years, and such terms may be renewed indefinitely. The medical examiners must be learned in the science of medicine and anatomy, licensed as physicians in this State and residents of this State. Each medical examiner before entering upon the duties of the office and before each period of renewal must be duly sworn to the faithful performance of the medical examiner's duty. [PL 2015, c. 285, §1 (AMD).]

The Chief Medical Examiner may make temporary appointments when the Chief Medical Examiner determines it is in the public interest. Temporary medical examiners shall serve on a case-by-case basis and must be licensed as physicians by the State but do not need to be residents of the State or take an oath of office. [PL 2001, c. 222, §2 (AMD).]

The Chief Medical Examiner may retain official consultants to serve the various needs of the office. These consultants must possess a high degree of integrity and be learned in their fields. They need not reside within the State or take an oath of office. They serve at the pleasure of the Chief Medical Examiner. [PL 2001, c. 222, §2 (AMD).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1979, c. 538, §3 (AMD). PL 1985, c. 611, §5 (AMD). PL 2001, c. 222, §2 (AMD). PL 2013, c. 113, §1 (AMD). PL 2015, c. 285, §1 (AMD).

#### **§3023-A. Medicolegal death investigators; appointment; jurisdiction**

The Chief Medical Examiner may appoint persons who are not physicians as medicolegal death investigators, who have statewide jurisdiction and serve at the pleasure of the Chief Medical Examiner, subject to the Chief Medical Examiner's control and rules adopted by the Chief Medical Examiner. Medicolegal death investigators must meet the certification and training requirements established by the Chief Medical Examiner and must be residents of this State. Medicolegal death investigators may be employees of the Office of Chief Medical Examiner or serve on a fee-for-service basis as determined

by the Chief Medical Examiner. A medicolegal death investigator before entering upon the duties of the office must be duly sworn to the faithful performance of the medicolegal death investigator's duty. [PL 2017, c. 475, Pt. A, §35 (AMD).]

The Chief Medical Examiner may implement a training and education program to enhance the technical and oversight expertise of the Office of Chief Medical Examiner and Medicolegal Death Investigator I positions. Notwithstanding any provision of law to the contrary, employees in the Medicolegal Death Investigator I classification who participate in the training and education program and who demonstrate that they have achieved competencies prescribed by the Chief Medical Examiner may progress immediately to the senior position in this classification series. [PL 2019, c. 343, Pt. LL, §1 (NEW).]

#### SECTION HISTORY

PL 2013, c. 113, §2 (NEW). PL 2017, c. 475, Pt. A, §35 (AMD). PL 2019, c. 343, Pt. LL, §1 (AMD).

#### **§3024. Salaries; fees; expenses**

The salary of the Chief Medical Examiner of the State must be set by the Governor. Other nonsalaried medical examiners and nonsalaried medicolegal death investigators, upon the submission of their completed report to the Chief Medical Examiner, must be paid a fee of up to \$100 for an inspection and view and are entitled to receive travel expenses to be calculated at the mileage rate currently paid to state employees pursuant to Title 5, section 8. An additional fee of \$50 may be authorized by the Chief Medical Examiner for payment to other nonsalaried medical examiners and nonsalaried medicolegal death investigators for visits to death scenes other than hospitals. [PL 2017, c. 284, Pt. EEE, §1 (AMD).]

The fees for autopsies performed by pathologists, at the request of a medical examiner or the Chief Medical Examiner, must be set by the Chief Medical Examiner at a level that provides reasonable payment for necessary costs and a reasonable fee in light of prevailing rates for the services of a pathologist in the State. [PL 2001, c. 222, §3 (AMD).]

The Chief Medical Examiner may, in an unusual circumstance as determined by the Chief Medical Examiner, prescribe a special fee for the service of a medical examiner or medicolegal death investigator or for any consultant service the Chief Medical Examiner determines necessary. [PL 2013, c. 113, §3 (AMD).]

The Chief Medical Examiner may authorize any other expenses necessary to carry out the Chief Medical Examiner's duties. The Chief Medical Examiner shall reimburse a funeral establishment that transports a body to Augusta at the request of the Office of Chief Medical Examiner at the following rates: for up to and including the first 25 miles, \$120; for the next 25 miles, \$2 per mile traveled while actually transporting a body; and for miles in excess of 50, \$1.75 per mile traveled while actually transporting a body. [PL 2011, c. 445, §1 (AMD); PL 2011, c. 445, §3 (AFF).]

All compensation and expenses authorized by this chapter must be paid from the funds of the State appropriated by the Legislature for this purpose. [PL 2001, c. 222, §3 (AMD).]

If the Chief Medical Examiner or employees of that office provide expert opinion or testimony relating to Maine medical examiner cases on behalf of private litigants, the Chief Medical Examiner may set a reasonable fee for these services, preparation leading to them and expenses incurred in providing them. All fees, charges or other receipts must be credited to the General Fund. Medical examiners, medicolegal death investigators and consultants who serve the State on a fee per case basis are excluded from this paragraph and may make private arrangements for these services. [PL 2013, c. 113, §3 (AMD).]

Notwithstanding Title 5, section 1585 or any other provision of law, available balances in the Chief Medical Examiner account, Personal Services line category in excess of funds needed to offset attrition may be transferred by financial order to the Chief Medical Examiner account, All Other line category to provide for contracted medical examiner services upon the recommendation of the State Budget Officer and approval of the Governor. [PL 2013, c. 368, Pt. DD, §2 (NEW).]

## SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1969, c. 125 (AMD). PL 1975, c. 771, §220 (AMD). PL 1977, c. 59, §2 (RPR). PL 1979, c. 538, §4 (AMD). PL 1981, c. 242, §3 (AMD). PL 1981, c. 702, §M1 (AMD). PL 1983, c. 534, §1 (AMD). PL 1997, c. 24, §PP1 (AMD). PL 2001, c. 222, §3 (AMD). PL 2011, c. 445, §1 (AMD). PL 2011, c. 445, §3 (AFF). PL 2013, c. 113, §3 (AMD). PL 2013, c. 368, Pt. CC, §1 (AMD). PL 2013, c. 368, Pt. DD, §2 (AMD). PL 2017, c. 284, Pt. EEE, §1 (AMD).

### §3025. Medical examiner case

**1. Circumstances of death that must be reported.** A medical examiner case may exist and must be reported as provided in section 3026 when remains are found that may be human and raise suspicion that death has occurred under any of the following circumstances:

A. Death is suspected of having been caused by any type of physical injury, including poisoning, regardless of whether the suspected manner of death is homicide, suicide or accident. This circumstance must be reported irrespective of whether the deceased had been attended by a physician, was a patient in a hospital, survived for a considerable time following the physical injury or died from terminal natural causes consequent to and following the physical injury; [PL 2003, c. 433, §1 (AMD).]

B. Suddenly when the person is in apparent good health and has no specific natural disease sufficient to explain death; [PL 1985, c. 611, §6 (RPR).]

C. During diagnostic or therapeutic procedures under circumstances indicating gross negligence or when clearly due to trauma or poisoning unrelated to the ordinary risks of those procedures; [PL 1985, c. 611, §6 (RPR).]

D. Death when the person is in custody pursuant to an arrest, confined in a state correctional or detention facility, county jail, other county correctional or detention facility or local lockup or is on the way to or from a courthouse or any of these places while in the custody of a law enforcement officer or county or state corrections official; [PL 2011, c. 420, Pt. D, §2 (AMD); PL 2011, c. 420, Pt. D, §6 (AFF).]

E. Death while the person is a patient or resident of a facility of the Department of Health and Human Services or residential care facility maintained or licensed by the Department of Health and Human Services, unless clearly certifiable by an attending physician as due to specific natural causes; [PL 1985, c. 611, §6 (RPR); PL 1995, c. 560, Pt. K, §82 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

F. Death suspected of being due to a threat to the public health when the authority of the medical examiner is needed to adequately study the case for the protection of the public health; [PL 1985, c. 611, §6 (RPR).]

G. Death suspected of not having been certified, including, but not limited to, bodies brought into the State and any buried remains uncovered other than by legal exhumation; [PL 1985, c. 611, §6 (RPR).]

H. Deaths suspected of being medical examiner cases which may have been improperly certified or inadequately examined, including, but not limited to, bodies brought into the State under those circumstances; [PL 1991, c. 339, §3 (AMD).]

I. Sudden infant death syndrome deaths and all other deaths of children under the age of 18 unless clearly certifiable by an attending physician as due to specific natural causes unrelated to abuse or neglect; [PL 1985, c. 611, §6 (RPR).]

J. Whenever human or possibly human remains are discovered not properly interred or disposed of, for which the responsibility to do so cannot be readily determined; or [PL 1985, c. 611, §6 (RPR).]

K. Any cause when there is no attending physician capable of certifying the death as due to natural causes. When a person dies who is under the care of a religious practitioner who uses prayer and spiritual means of healing, the fact that the deceased has been under such religious care does not warrant suspicion of foul play or investigation beyond that warranted by the other facts of the case. [PL 1985, c. 611, §6 (RPR).]

In the absence of any of the circumstances outlined in this subsection, the fact that a patient dies within 24 hours of admission to a hospital or other health care facility need not be reported to the Office of Chief Medical Examiner.

In any case in which the necessity of a report is questionable, a report must be made. [PL 2019, c. 87, §1 (AMD).]

**1-A. Medical examiner case determination.** Notwithstanding that a case must be reported under subsection 1, the acceptance of any reported death as a medical examiner case is to be determined by the Chief Medical Examiner unless acceptance is specifically ordered by the Attorney General or district attorney having jurisdiction.

The following deaths that must be reported need not be accepted by the Chief Medical Examiner as a medical examiner case:

A. Deaths due to the consequences of long-term exposure to environmental or occupational toxins or long-term exposure to carcinogens; [PL 2019, c. 87, §2 (AMD).]

B. Deaths in the elderly who have sustained limb or axial fractures, excluding the head, for which they are or have been hospitalized; or [PL 2003, c. 433, §4 (NEW).]

C. Sudden natural deaths in the elderly who have not had previous specific symptoms or who were not under treatment by a physician for the specific natural cause that is considered to be the cause of death. [PL 2003, c. 433, §4 (NEW).]

These reportable deaths may be referred back to the attending physician by the Chief Medical Examiner for certification of the death, even though the attending physician has not treated the patient for the specific natural disease that the attending physician will enter as the physician's diagnosis. [PL 2019, c. 87, §2 (AMD).]

**2. Attendance by physician.**

[PL 2003, c. 433, §5 (RP).]

**3. Transplant operations.** An operation for the transplant of an organ or a portion of an organ may not take place, when the donor's death occurs under circumstances indicating a medical examiner case, without approval of the medical examiner. A doctor performing a transplant operation when the donor has died under these circumstances shall note the condition of the vital organs in the region of surgery and shall include this notation in a written report of the operation and manner in which death was pronounced, with the report to be given to the medical examiner upon the medical examiner's request. The medical examiner may choose to be present during the removal of the donated organ. [RR 2021, c. 2, Pt. B, §151 (COR).]

**4. Questionable cases and cases that may constitute exceptions.**

[PL 2003, c. 433, §6 (RP).]

**5. Delayed reports.** When a death has occurred that falls under this law as a medical examiner case and the body has already been released for final disposition, the case may be accepted and the body ordered held for examination by a medical examiner, but no exhumation may take place when the body has been finally interred, except pursuant to section 3029.

[PL 1985, c. 611, §6 (NEW).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1973, c. 567, §20 (AMD). PL 1979, c. 538, §5 (RPR). PL 1985, c. 611, §6 (RPR). PL 1987, c. 296, §3 (AMD). PL 1991, c. 339, §3 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 222, §§4-6 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 433, §§3-6 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 60, §1 (AMD). PL 2011, c. 420, Pt. D, §2 (AMD). PL 2011, c. 420, Pt. D, §6 (AFF). PL 2019, c. 87, §§1, 2 (AMD). RR 2021, c. 2, Pt. B, §151 (COR).

#### §3026. Reports of death

**1. Persons suspecting medical examiner case.** Any person who becomes aware of a suspected medical examiner case shall immediately notify a law enforcement officer or the Office of Chief Medical Examiner. As used in this subsection, "person" means a natural person, including a public servant, and a corporation, partnership, unincorporated association or any other nonhuman legal entity, including any governmental unit.

[PL 2001, c. 222, §7 (AMD).]

**2. Law enforcement officers suspecting medical examiner case.** Any law enforcement officer who becomes aware of a suspected medical examiner case shall immediately notify the Office of Chief Medical Examiner.

[PL 2001, c. 222, §7 (AMD).]

**3. Medical examiners suspecting medical examiner case.** Any medical examiner who becomes aware of a death caused by physical injury, or in which physical injury is the suspected cause, shall immediately notify the Office of Chief Medical Examiner and the appropriate law enforcement agency. The agency shall notify the district attorney for the district in which the body is located.

[PL 2001, c. 222, §7 (AMD).]

**4. Cases involving or suspected of involving physical injury attributable to criminal conduct.** Any law enforcement officer or medical examiner who becomes aware of a death involving physical injury attributable to criminal conduct, or in which physical injury attributable to criminal conduct is suspected, other than vehicular manslaughter, in addition to complying with the notification requirements in subsection 3, shall immediately notify the Attorney General.

[PL 2001, c. 222, §7 (AMD).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1973, c. 604, §1 (AMD). PL 1979, c. 538, §6 (RPR). PL 2001, c. 222, §7 (AMD).

#### §3027. Procedure at scene of death

**1. Movement or alteration of body prohibited.** Except as otherwise provided in this section:

A. In any medical examiner case a person may not move or alter the body or any objects at the scene of death prior to the arrival, or without the express authorization, of the medical examiner or Office of Chief Medical Examiner; [PL 2001, c. 222, §8 (AMD).]

B. In any medical examiner case in which physical injury attributable to noncriminal conduct is suspected or in which any physical injury by motor vehicle, including vehicular manslaughter, is suspected, a person may not move or alter the body or any objects at the scene of death prior to the arrival, or without the express authorization, of the district attorney for the district in which the



body is located or the district attorney's authorized representative; and [PL 2001, c. 222, §8 (AMD).]

C. In any medical examiner case in which physical injury attributable to criminal conduct other than vehicular manslaughter is suspected, a person may not move or alter the body or any objects at the scene of death prior to the arrival, or without the express authorization, of the Attorney General or the Attorney General's authorized representative. [PL 2001, c. 222, §8 (AMD).]  
[PL 2001, c. 222, §8 (AMD).]

**2. Preservation or removal of body.** In any medical examiner case in which the body is in danger of being destroyed or lost or the location of the body renders it a serious threat to the safety or health of others, a person may take whatever steps are reasonably necessary for the retention or preservation of the body prior to the arrival or authorization of the medical examiner or the Office of Chief Medical Examiner. The person shall first, if practicable, exactly mark the location and position of the body.

In any medical examiner case in which physical injury attributable to criminal conduct other than vehicular manslaughter is not suspected and the presence of the body is likely to cause hardship or outrage, and a medical examiner or the Office of Chief Medical Examiner can not be reached in a reasonable period of time, the district attorney for the district in which the body is located or the district attorney's authorized representative may authorize removal of the body by the law enforcement officer in charge of the scene. The officer shall first, if practicable, exactly mark the location and position of the body.

A. When death occurs in a medical facility such as a hospital or an ambulance, the body may be removed to a mortuary under the following conditions:

- (1) The incident causing the death did not occur in the medical facility;
- (2) The body is transported to a secure place in the same condition as when death occurred; and
- (3) The only alterations are the disconnecting of fixed medical equipment. [PL 1979, c. 538, §7 (NEW).]

[PL 2001, c. 222, §8 (AMD).]

**3. Procedures.** Before removal of the body as provided in subsection 2, the law enforcement officer shall whenever possible arrange for photographs, measurements and a record of the location and position of the body.

When the death is suspected of involving physical injury attributable to criminal conduct other than vehicular manslaughter, the procedure in this subsection must be undertaken with the supervision of an authorized representative of the Attorney General.

In all medical examiner cases in which physical injury attributable to criminal conduct other than vehicular manslaughter is suspected, the procedure in this subsection may be waived concurrently by the Chief Medical Examiner and the Attorney General or the Attorney General's authorized representative.

In all other medical examiner cases the procedure in this subsection may be waived concurrently by the medical examiner and the district attorney for the district in which the body is located or the district attorney's authorized representative.

[PL 2001, c. 222, §8 (AMD).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1979, c. 538, §7 (RPR). PL 2001, c. 222, §8 (AMD).

#### §3028. Investigation; autopsy

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

**1. Authority to conduct investigation.** The medical examiner or medicolegal death investigator has authority to conduct an investigation and inquiry into the cause, manner and circumstances of death in a medical examiner case. The medical examiner or medicolegal death investigator shall, if it is determined necessary, immediately proceed to the scene and, subject to the authority of the Attorney General, assume custody of the body for the purposes of the investigation, and shall retain custody until the investigation has been completed or until the Chief Medical Examiner has assumed charge of the case.

[PL 2013, c. 113, §4 (AMD).]

**2. Investigation by law enforcement officer.** When death is not suspected to be the result of physical injury attributable to criminal conduct, the medical examiner may elect not to proceed to the scene, or the Chief Medical Examiner may elect not to dispatch a medical examiner or medicolegal death investigator to the scene. If the medical examiner elects not to proceed to the scene, or the Chief Medical Examiner elects not to dispatch a medical examiner or medicolegal death investigator to the scene, the law enforcement officer in charge of the scene shall:

A. Investigate, take photographs and take possession of useful objects as directed by the medical examiner, medicolegal death investigator or the Office of Chief Medical Examiner pursuant to subsection 4; [PL 2013, c. 113, §5 (AMD).]

B. [PL 2001, c. 291, §2 (RP).]

C. Remove the body in accordance with the instructions of the medical examiner, medicolegal death investigator or the Office of Chief Medical Examiner; and [PL 2013, c. 113, §5 (AMD).]

D. Make a report of the investigation available to the medical examiner, medicolegal death investigator or the Office of Chief Medical Examiner. [PL 2013, c. 113, §5 (AMD).]

[PL 2013, c. 113, §5 (AMD).]

**3. Assistance of law enforcement agency.** The medical examiner, the medicolegal death investigator or the pathologist as described in subsection 8 may request the assistance and use of the facilities of the law enforcement agency having jurisdiction over the case for the purposes of photographing, fingerprinting or otherwise identifying the body. That agency shall provide the medical examiner, medicolegal death investigator or pathologist with a written report of the steps taken in providing the assistance.

[PL 2013, c. 113, §6 (AMD).]

**4. Possession of useful objects.** Except as otherwise directed by the Attorney General, the Attorney General's deputies or assistants, the medical examiner, the medicolegal death investigator or the Office of Chief Medical Examiner may direct that a law enforcement officer at the scene make measurements, take photographs and take possession of all objects that in the opinion of the medical examiner, medicolegal death investigator or the Office of Chief Medical Examiner may be useful in establishing the cause, manner and circumstances of death. For these same purposes, the medical examiner, medicolegal death investigator or the Office of Chief Medical Examiner may direct that a law enforcement officer take possession of any objects or specimens that have been removed from the victim at the scene or elsewhere while under medical care.

[PL 2013, c. 113, §7 (AMD).]

**5. Requests for objects.** Any person having possession of any object or objects, as described in subsection 4, shall at the request of the medical examiner or medicolegal death investigator give that object or objects to a law enforcement officer, to the medical examiner, to the medicolegal death investigator or to the Office of Chief Medical Examiner. Medical personnel and institutions turning over any objects or specimens that have been removed from the victim while under medical care are immune from civil or criminal liability when complying with this subsection. Original written or recorded material that might express suicidal intent must be sent to the Office of Chief Medical Examiner. The Chief Medical Examiner may elect to accept copies in place of originals.

[PL 2017, c. 475, Pt. A, §36 (AMD).]

**6. Examination of body.** In all cases, the medical examiner or medicolegal death investigator shall conduct a thorough examination of the body except in those cases when the body has already been disposed of and is not being exhumed or when the Chief Medical Examiner or Deputy Chief Medical Examiner determines, after review of available records and known circumstances, that the report of the death of the decedent may be certified and completed without examining the body.

[PL 2013, c. 113, §9 (AMD).]

**7. Written report.** Upon completing an investigation, the medical examiner or medicolegal death investigator shall submit a written report of the investigator's findings to the Chief Medical Examiner on forms provided for that purpose. The investigator shall retain one copy of the report.

If an investigator reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the investigator, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011-A.

[PL 2013, c. 113, §10 (AMD).]

**8. Autopsy.** If, in any medical examiner case, in the opinion of the medical examiner, the Chief Medical Examiner, the district attorney for the district in which the death has occurred or the Attorney General, it is advisable and in the public interest that an autopsy be made, the autopsy must be conducted by the Chief Medical Examiner or by a physician that the medical examiner, with the approval of the Chief Medical Examiner, may designate. The medical examiner, with the approval of the Chief Medical Examiner, may elect to perform the autopsy. The person who performs the autopsy shall make a complete report of the findings of the autopsy and shall transmit the report to the medical examiner and the Office of Chief Medical Examiner, retaining one copy of the report.

[PL 1991, c. 339, §4 (AMD).]

**9. Autopsy of child.** In the case of a child under the age of 3 years, when death occurs without medical attendance or, if attended, without a specific natural cause, the medical examiner shall order an autopsy. The autopsy may be waived by the Chief Medical Examiner, as long as the Chief Medical Examiner includes the reason for the waiver in the record.

[PL 2001, c. 222, §9 (AMD).]

**10. Chief Medical Examiner; jurisdiction.** The Chief Medical Examiner may assume jurisdiction over a medical examiner case and may recertify the death when the Chief Medical Examiner finds that it is in the public interest to do so. The Chief Medical Examiner shall include the reasons for so doing in the record.

[PL 2001, c. 222, §9 (AMD).]

**11. Final release of body.** In any medical examiner case the body shall not be finally released for embalming or burial except by order of the medical examiner in charge of the case, or by the Chief Medical Examiner. No medical examiner may release a body without first ensuring that the case has been reported to the Office of Chief Medical Examiner.

[PL 1985, c. 611, §7 (AMD).]

**12. (TEXT EFFECTIVE UNTIL 1/01/23) Report to domestic abuse panel.** If the Chief Medical Examiner determines that a death resulted from criminal conduct and that the victim was pregnant at the time of death, the Chief Medical Examiner shall send a copy of any report prepared under this section to the Domestic Abuse Homicide Review Panel created pursuant to Title 19-A, section 4013.

[PL 2005, c. 88, Pt. A, §2 (NEW).]

**12. (TEXT EFFECTIVE 1/01/23) Report to domestic abuse panel.** If the Chief Medical Examiner determines that a death resulted from criminal conduct and that the victim was pregnant at

the time of death, the Chief Medical Examiner shall send a copy of any report prepared under this section to the Domestic Abuse Homicide Review Panel created pursuant to Title 19-A, section 4115. [PL 2021, c. 647, Pt. B, §49 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1973, c. 567, §20 (AMD). PL 1979, c. 538, §8 (RPR). PL 1985, c. 611, §7 (AMD). PL 1991, c. 97, §§1,2 (AMD). PL 1991, c. 339, §4 (AMD). PL 1995, c. 272, §§1-3 (AMD). PL 2001, c. 222, §9 (AMD). PL 2001, c. 291, §§1-7 (AMD). PL 2001, c. 345, §2 (AMD). PL 2003, c. 510, §B7 (AMD). PL 2005, c. 88, §A2 (AMD). PL 2011, c. 182, §1 (AMD). PL 2013, c. 113, §§4-10 (AMD). PL 2017, c. 475, Pt. A, §36 (AMD). PL 2021, c. 647, Pt. B, §49 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF).

#### **§3028-A. Disposal of unidentified remains and abandoned human remains**

Whenever unidentified human remains are recovered, the Chief Medical Examiner may store the remains, release them to an educational institution, inter them in an appropriate resting place or have them cremated. Ashes of remains cremated may be disposed of in any appropriate manner. Human remains uncovered in a cared-for cemetery or known to be Indian remains are excluded from the operation of this section. [PL 2017, c. 335, §1 (AMD).]

The Chief Medical Examiner may assume responsibility for the disposal of identified human remains of a deceased resident of this State that are the subject of a medical examiner case if no one takes custody and control of the human remains for a period of 30 days after the Chief Medical Examiner has both completed an autopsy or necessary examination of the human remains and made reasonable inquiry under section 3028-D, subsection 1. Such abandoned remains may be interred or cremated. The Chief Medical Examiner shall file or cause to be filed a certificate of abandonment in the municipality where the human remains were recovered that indicates the means of disposal. [PL 2017, c. 335, §1 (NEW).]

In the absence of a responsible party, payment of expenses incurred by the Chief Medical Examiner pursuant to this section must be made pursuant to section 3028-D, subsection 2 as if the remains were unidentified. The Chief Medical Examiner may seek to recover costs from the estate or municipality of residence of the deceased. [PL 2017, c. 335, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 611, §8 (NEW). PL 2017, c. 335, §1 (AMD).

#### **§3028-B. Retention of body fragments and body fluids**

A medical examiner or the medical examiner's designated pathologist may retain body fragments or body fluids for evidence, further study or documentation. [RR 2021, c. 2, Pt. B, §152 (COR).]

#### SECTION HISTORY

PL 1985, c. 611, §8 (NEW). RR 2021, c. 2, Pt. B, §152 (COR).

#### **§3028-C. Disposal of nonsubstantial fragments and fluids; disposal of substantial fragments**

**1. Disposal of nonsubstantial body fragments and body fluids.** Body fragments or body fluids retained for evidence, further study or documentation, or those that have been recovered after the body has been released from the custody of the medical examiner, may be disposed of according to the practices of the laboratory responsible for analysis, by the Office of Chief Medical Examiner or by the medical examiner or pathologist retaining those fragments or fluids, unless claimed in writing by the person responsible for burial. [PL 2017, c. 475, Pt. A, §37 (AMD).]

**2. Disposal of substantial body fragments.** The Chief Medical Examiner may dispose of substantial fragments of bodies that have been retained for evidence, further study or documentation or

that have been recovered after the rest of the body has been finally released, in accordance with section 3028-A, unless claimed by the person responsible for burial.

[PL 1985, c. 611, §8 (NEW).]

#### SECTION HISTORY

PL 1985, c. 611, §8 (NEW). PL 2017, c. 475, Pt. A, §37 (AMD).

#### **§3028-D. Disposal of identified human remains without connection to State and unidentified human remains**

**1. Assumption of responsibility.** The Chief Medical Examiner may assume responsibility for proper disposition of the identified human remains of a deceased nonresident of this State or unidentified human remains that are the subject of a medical examiner case if the Chief Medical Examiner has made reasonable inquiry and is unable to locate:

A. Next of kin or a person or governmental unit legally responsible for the human remains; or [PL 2001, c. 292, §1 (NEW).]

B. A person or governmental unit otherwise willing to assume responsibility for the human remains. [PL 2001, c. 292, §1 (NEW).]

[PL 2001, c. 292, §1 (NEW).]

**2. Necessary expenses.** The expenses incurred by the Chief Medical Examiner must be paid as follows.

A. The department shall pay any necessary expenses incurred by the Chief Medical Examiner as to:

(1) Unidentified human remains that, after reasonable inquiry, the Chief Medical Examiner has determined not to be the human remains of an illegal alien; and

(2) A deceased nonresident other than an illegal alien. [PL 2001, c. 292, §1 (NEW).]

B. The Department of the Attorney General shall pay any necessary expenses incurred by the Chief Medical Examiner as to:

(1) A deceased nonresident who is an illegal alien; and

(2) Unidentified human remains that, after reasonable inquiry, the Chief Medical Examiner has determined to be the human remains of an illegal alien. [PL 2001, c. 292, §1 (NEW).]

[PL 2001, c. 292, §1 (NEW).]

#### SECTION HISTORY

PL 2001, c. 292, §1 (NEW).

#### **§3029. Body buried without inquiry**

**1. Notification of district attorney or Attorney General.** If in any medical examiner case:

A. The body is buried:

(1) Without inquiry or examination by the medical examiner;

(2) Before the inquiry or examination has been completed to the satisfaction of the medical examiner; or

(3) Without an autopsy if such was advisable pursuant to section 3028; and [PL 1979, c. 538, §9 (NEW).]

B. The body is required for that inquiry, examination, completion or autopsy, the medical examiner shall notify the district attorney, for the district in which the body was found, or the Attorney General. [PL 1979, c. 538, §9 (NEW).]

[PL 1979, c. 538, §9 (NEW).]

**2. Petition for order of exhumation.** The district attorney or Attorney General may, under the circumstances enumerated in subsection 1 and if the district attorney or Attorney General finds it to be in the public interest, petition a justice of the Superior Court for an order of exhumation.

[PL 2001, c. 222, §10 (AMD).]

**3. Report of findings.** The medical examiner, Chief Medical Examiner or pathologist who completes the inquiry, examination or autopsy shall report the findings to the justice and to the Office of Chief Medical Examiner.

[PL 2001, c. 222, §10 (AMD).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1973, c. 567, §20 (AMD). PL 1979, c. 538, §9 (RPR). PL 2001, c. 222, §10 (AMD).

#### §3030. Victims of crime

**(REPEALED)**

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1973, c. 567, §20 (AMD). PL 1977, c. 59, §3 (RP).

#### §3031. Facilities and services available to medical examiners

The facilities of all laboratories, under the control of any state agency or department and the services of the professional staffs thereof, shall be made available to the Chief Medical Examiner with the cooperation of the head of the agency involved. [PL 1967, c. 534, §2 (NEW).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW).

#### §3032. Rules

The Chief Medical Examiner is authorized and empowered to carry into effect this chapter and, in pursuance thereof, to make and enforce such reasonable rules consistent with this chapter as the Chief Medical Examiner determines necessary. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 2001, c. 222, §11 (AMD).]

#### SECTION HISTORY

PL 1967, c. 534, §2 (NEW). PL 1985, c. 611, §9 (AMD). PL 2001, c. 222, §11 (AMD).

#### §3033. Limitation on liability of certain persons appointed or retained

**1. Additional immunities.** In addition to all existing tort immunities enumerated in the Maine Tort Claims Act:

A. A medical examiner may not be held liable for damages for any injury or damage that results from the exercise and discharge of any of the medical examiner's official duties, unless it can be shown that the injury or damage resulted from gross negligence on the part of the medical examiner; [PL 2001, c. 222, §12 (NEW).]

B. A pathologist performing an autopsy at the request of a medical examiner or the Chief Medical Examiner may not be held liable for damages for any injury or damage that results from the performance of the autopsy unless it can be shown that the injury or damage resulted from the gross negligence of the pathologist; [PL 2013, c. 113, §11 (AMD).]

C. A professional consultant, who at the request of a medical examiner or the Chief Medical Examiner conducts an examination and renders a report, may not be held liable for damages for

any injury or damage that results from the performance of the examination unless it can be shown that the injury or damage resulted from the gross negligence of the consultant; and [PL 2013, c. 113, §11 (AMD).]

D. A medicolegal death investigator may not be held liable for damages for any injury or damage that results from the exercise and discharge of any of the medicolegal death investigator's official duties unless it can be shown that the injury or damage resulted from gross negligence on the part of the medicolegal death investigator. [PL 2013, c. 113, §12 (NEW).]

[PL 2013, c. 113, §§11, 12 (AMD).]

#### SECTION HISTORY

PL 1977, c. 59, §4 (NEW). PL 1979, c. 538, §10 (AMD). PL 2001, c. 222, §12 (RPR). PL 2013, c. 113, §§11, 12 (AMD).

#### §3034. Missing persons

**1. Files; information.** The Office of Chief Medical Examiner shall maintain files on missing persons sufficient for the purpose of identification when there is reason to suspect that those persons may not be found alive. These files may include such material as medical and dental records and specimens, details of personal property and physical appearance, samples of hair, fingerprints and specimens that may be useful for identification. The Chief Medical Examiner may require hospitals, physicians, dentists and other medical institutions and practitioners to provide information, samples and specimens. A person participating in good faith in the provision of the information, samples or specimens under this section is immune from any civil or criminal liability for that act or for otherwise cooperating with the Chief Medical Examiner.

[PL 1991, c. 339, §5 (NEW).]

**2. Confidentiality; disclosure.** Except as provided in subsection 5, all information and materials gathered and retained pursuant to this section must be used solely for the purposes of identification of deceased persons and persons found alive who are unable to identify themselves because of mental or physical impairment. The files and materials are confidential, except that compiled data that does not identify specific individuals may be disclosed to the public. Upon the identification of a deceased person, those records and materials used for the identification may become part of the records of the Office of Chief Medical Examiner and may then be subject to public disclosure as pertinent law provides.

[PL 2011, c. 524, §2 (AMD).]

**3. Reporting of missing persons.** Missing persons may be reported directly to the Office of Chief Medical Examiner by interested parties. Law enforcement agencies or other public agencies that receive reports of missing persons, or that gain knowledge of missing persons, shall report that information to the Office of Chief Medical Examiner. Law enforcement agencies shall report all attempts to locate missing persons to the Office of Chief Medical Examiner. All absences without leave by individuals from state institutions must also be reported to the Office of Chief Medical Examiner when there exists a reasonable possibility of harm to that individual.

[PL 1991, c. 339, §5 (NEW).]

**4. Cooperation.** All state and law enforcement agencies and public and private custodial institutions shall cooperate with the Office of Chief Medical Examiner in reporting, investigating, clearing and gathering further information and materials on missing persons.

[PL 1991, c. 339, §5 (NEW).]

**5. Release to assist in search.** The Office of Chief Medical Examiner may release confidential information and materials about a missing person that are gathered and retained pursuant to this section if the Chief Medical Examiner determines that such release may assist in the search for the missing person.

[PL 2011, c. 524, §3 (NEW).]

## SECTION HISTORY

PL 1991, c. 339, §5 (NEW). PL 2011, c. 524, §§2, 3 (AMD).

### §3035. Fees

**1. Fees.** Except as provided in subsections 3 and 4, the Office of Chief Medical Examiner shall charge a fee for providing report documents, histological slides and other items or additional services sought by a person entitled to obtain that item or service relating to a medical examiner case. Fees are to be paid in advance and according to the following fee schedule:

A. For report documents, the fees are as follows:

(1) Report documents when no autopsy has been performed, \$15;

(2) Report documents when an autopsy has been performed, \$35; and

(3) Report documents under subparagraphs (1) and (2) accompanied by a certificate under section 3022, subsection 6, an additional fee of \$35, \$25 of which accrues to the Secretary of State; [PL 2017, c. 284, Pt. FFF, §1 (AMD).]

B. For histological slides, the fees are as follows:

(1) For each slide, \$12.50;

(2) A handling fee per case, \$25; and

(3) For 21 slides or more, an additional handling fee, \$25; [PL 2017, c. 335, §2 (AMD).]

C. For other items and services such as photographs and transparencies, additional tests relating to toxicology or specimens and videotaping:

(1) A handling fee per case, \$20; and

(2) Anticipated costs of providing the item or service, including shipping charges; and [PL 2017, c. 335, §3 (AMD).]

D. For forensic preservation of body fragments and body fluids beyond the period established by the policy of the Office of Chief Medical Examiner, a fee not to exceed \$100 per year, per case. [PL 2017, c. 335, §4 (NEW).]

[PL 2017, c. 335, §§2-4 (AMD).]

**2. Report documents.** For purposes of this section, "report documents" in a medical examiner case include the written report under section 3028, subsection 7; the written report of the findings of the autopsy under section 3028, subsection 8; and associated reports, including, but not limited to, toxicological reports, reports of forensic experts, reports of consultants and reports relating to harvested organs.

[PL 1997, c. 598, §1 (NEW).]

**3. Exemptions.** Exemptions from paying the fees established in subsection 1 are as follows.

A. A governmental agency is exempt from all fees in subsection 1. [PL 1997, c. 598, §1 (NEW).]

B. A health care provider who has rendered service to the deceased is exempt from fees for the copy of report documents under subsection 1, paragraph A, subparagraphs (1) and (2). [PL 1997, c. 598, §1 (NEW).]

C. A next of kin of the deceased, as defined under section 2843-A, is exempt from the fee for one copy per family of report documents under subsection 1, paragraph A, subparagraphs (1) and (2). [PL 1997, c. 598, §1 (NEW).]

[PL 1997, c. 598, §1 (NEW).]



**4. Waiver.** Notwithstanding the fee schedule under subsection 1, paragraph A, fees for report documents relating to a medical examiner case may be waived at the discretion of the Chief Medical Examiner.

[PL 1997, c. 598, §1 (NEW).]

**5. Deposit of fees.** All fees collected must be deposited in a nonlapsing dedicated account within the Office of Chief Medical Examiner.

[PL 2017, c. 2, Pt. F, §1 (AMD).]

#### SECTION HISTORY

PL 1997, c. 598, §1 (NEW). RR 2015, c. 2, §11 (COR). PL 2017, c. 2, Pt. F, §1 (AMD). PL 2017, c. 284, Pt. FFF, §1 (AMD). PL 2017, c. 335, §§2-4 (AMD).

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