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An Act To Implement the Recommendations of the Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness

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

Sec. 1. 25 MRSA §2803-B, sub-§1, ¶J, as corrected by RR 2003, c. 2, §90, is amended to read:

J. Public notification regarding persons in the community required to register under Title 34-A, chapter 15; and

Sec. 2. 25 MRSA §2803-B, sub-§1, ¶K, as reallocated by RR 2003, c. 2, §91, is amended to read:

K. Digital, electronic, audio, video or other recording of law enforcement interviews of suspects in serious crimes and the preservation of investigative notes and records in such cases; and

Sec. 3. 25 MRSA §2803-B, sub-§1, ¶L is enacted to read:

L. Mental illness and the process for involuntary commitment.

Sec. 4. 25 MRSA §2803-B, sub-§2, as repealed and replaced by PL 2005, c. 397, Pt. C, §17, is amended to read:

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be established no later than January 1, 2003; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; and policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; and policies for mental illness and the process for involuntary commitment under subsection 1, paragraph L must be established no later than January 1, 2010.

Sec. 5. 25 MRSA §2803-B, sub-§3, as repealed and replaced by PL 2005, c. 331, §16 and affected by §33, is amended to read:

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (3) must be made to the board no later than June 1, 2003; certification to the board for adoption

of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; ~~and~~ certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; ~~and certification to the board for adoption of a policy regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than June 1, 2010.~~ The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; ~~and~~ certification for orientation and training with respect to policies regarding the recording and preservation of ~~interviewinterviews~~ of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; ~~and certification for orientation and training with respect to policies regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than January 1, 2011.~~

Sec. 6. 25 MRSA §2804-C, sub-§2-D is enacted to read:

2-D. Training regarding people who have mental illness and the involuntary commitment process. The board shall include in the basic law enforcement training program a block of instruction aimed specifically at the clinical, safety and procedural components of the involuntary commitment process, including the provision of a uniform checklist that includes reference to Title 34-B, section 1207, subsection 7 for law enforcement officers to use in order to effectively describe the seriousness of a case to a mental health professional.

Sec. 7. 34-B MRSA §1207, sub-§6-A, as enacted by PL 2007, c. 310, §6, is amended to read:

6-A. Disclosure of danger. A licensed mental health professional ~~may~~shall disclose protected health information that the professional believes is necessary to avert a serious and imminent threat to health or safety when the disclosure is made in good faith to any person, including a target of the threat, who is reasonably able to prevent or minimize the threat.

Sec. 8. 34-B MRSA §1207, sub-§7 is enacted to read:

7. Disclosure to law enforcement. A licensed mental health professional shall disclose protected health information when the disclosure is made in good faith for a law enforcement purpose to a law enforcement officer if the conditions, as applicable, are met as described in 45 Code of Federal Regulations, Section 164.512(f) (2008).

Sec. 9. 34-B MRSA §1207, sub-§8 is enacted to read:

8. Disclosure of knowledge of firearms. A licensed mental health professional shall notify law enforcement when the notification is made in good faith that the licensed mental health professional has reason to believe that a person committed to a state mental health institute has access to firearms.

Sec. 10. 34-B MRSA §3863, sub-§6-A is enacted to read:

6-A. Notification to law enforcement of release after examination. When a person is taken by a law enforcement officer to a psychiatric hospital for examination under this section and not admitted but released, the chief administrative officer of the hospital shall notify the law enforcement officer or the law enforcement officer's agency of that release.

Sec. 11. 34-B MRSA §3871, sub-§7 is enacted to read:

7. Firearms and discharge planning. Discharge planning must include inquiries and documentation of those inquiries into access by the patient to firearms and notification to the patient, the patient's family and any other caregivers that possession, ownership or control of a firearm by the person to be discharged is prohibited pursuant to Title 15, section 393, subsection 1. As used in this subsection, "firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

Sec. 12. Mental illness training in the tactical team certification. The Board of Trustees of the Maine Criminal Justice Academy shall incorporate specific training on mental illness as a component of the police tactical team certification process.

Sec. 13. Development of uniform checklist for law enforcement. The Commissioner of Health and Human Services shall develop, in cooperation with representatives of state, local and county law enforcement, a uniform checklist to be used by all law enforcement officers in order to effectively describe the seriousness of a case to a mental health professional.

Sec. 14. Education regarding prohibition of firearms. The Commissioner of Health and Human Services shall develop a method to provide education to all mental health professionals regarding the prohibition of possessing firearms by certain persons as described in the Maine Revised Statutes, Title 15, section 393.

SUMMARY

This bill implements legislative recommendations from the Attorney General's Ad Hoc Task Force on the Use of Deadly Force by Law Enforcement Officers Against Individuals Suffering From Mental Illness. The bill includes recommendations for increased law enforcement training and awareness of mental illness and the involuntary commitment process, increased sharing of mental health patients' information by mental health professionals to law enforcement consistent with Health Insurance Portability and Accountability Act of 1996 standards and increased education and awareness on the part of mental health providers regarding prohibitions of access to firearms by persons who are to be discharged from commitment.