CHAPTER 353

MAINE DRUG ENFORCEMENT ACT OF 1992

§2951. Short title

This chapter is known and may be cited as the "Maine Drug Enforcement Act of 1992." [PL 1991, c. 837, Pt. B, §10 (AMD).]

SECTION HISTORY

PL 1987, c. 411, §5 (NEW). PL 1991, c. 837, §B10 (AMD).

§2952. Definition

1. Drug. "Drug" means scheduled drugs, controlled substances or illegal drugs as defined by the Maine Criminal Code, Title 17-A, chapter 45 or federal law.
[PL 1987, c. 411, §5 (NEW).]

2. Agency. "Agency" means the Maine Drug Enforcement Agency.
[PL 1991, c. 837, Pt. B, §11 (NEW); PL 1991, c. 841, §8 (NEW).]

3. Assistant director. "Assistant director" means the Assistant Director of the Maine Drug Enforcement Agency.
[PL 1991, c. 837, Pt. B, §11 (NEW); PL 1991, c. 841, §8 (NEW).]

4. Board.
[PL 2021, c. 36, §13 (RP).]

5. Commissioner. "Commissioner" means the Commissioner of Public Safety.
[PL 1991, c. 837, Pt. B, §11 (NEW); PL 1991, c. 841, §8 (NEW).]

6. Director. "Director" means the Director of the Maine Drug Enforcement Agency.
[PL 1991, c. 837, Pt. B, §11 (NEW); PL 1991, c. 841, §8 (NEW).]

SECTION HISTORY

PL 1987, c. 411, §5 (NEW). PL 1991, c. 837, §B11 (AMD). PL 1991, c. 841, §8 (AMD). PL 2021, c. 36, §13 (AMD).

§2953. Policy

The Legislature finds that the distribution of scheduled drugs into, out of and within the State presents an unprecedented threat to the health and safety of this State. To meet this threat, this Act is established to develop a statewide drug enforcement program and strategy based on principles of integration and unification at all levels of law enforcement, including federal, state, county and municipal levels and prosecutorial as well as investigative agencies. [PL 1991, c. 841, §9 (AMD).]

SECTION HISTORY

PL 1987, c. 411, §5 (NEW). PL 1991, c. 841, §9 (AMD).

§2954. Maine Drug Enforcement Agency Advisory Board

(REPEALED)

SECTION HISTORY

PL 1987, c. 411, §5 (NEW). PL 1987, c. 666, §6 (AMD). PL 1991, c. 837, §B12 (AMD). PL 1991, c. 841, §10 (AMD). PL 1993, c. 680, §B2 (RPR). PL 2021, c. 36, §14 (RP).

§2955. Maine Drug Enforcement Agency

The commissioner shall establish and operate within the Maine Drug Enforcement Agency such regional investigative task forces as the commissioner determines are required for effective drug law enforcement throughout the State. [PL 2021, c. 36, §15 (AMD).]

The investigative component of each task force is comprised of law enforcement officers drawn from municipal, county and state law enforcement agencies, who, during the period in which they serve in the task force, must be placed on a temporary assignment by their employing law enforcement agencies and in the nonclassified positions within the agency as established. All agency investigative personnel may not be state employees, for the purposes of Title 26, chapter 9-B. All agency investigative personnel shall act in accordance with rules, policies and procedures established by the commissioner. In determining the number, areas of responsibility and investigative complement of these task forces, the commissioner shall take into account geography, population and the need for service. [PL 2021, c. 36, §16 (AMD).]

1. Director. The agency is managed by a director who reports to the commissioner. The director must be an experienced law enforcement officer. The Chief of the State Police, the Maine Sheriffs' Association and the Maine Chiefs of Police Association may each nominate one candidate as director for submission to the commissioner, who may appoint one of the candidates with the approval of the Governor. If the commissioner or the Governor does not approve of the 3 candidates submitted, each of the nominating groups is requested to submit an additional nomination. The director serves at the pleasure of the commissioner. Eligibility for this appointment is not dependent upon the parent law enforcement agency, if any, of the person selected. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. The director reports directly to the commissioner, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any provision of law to the contrary, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as director.
[PL 2021, c. 36, §17 (AMD).]

2. Assistant director. The director of the agency is assisted by an assistant director. The assistant director must be an experienced law enforcement officer and may exercise any of the powers of the director as the director may delegate. The assistant director is appointed by and serves at the pleasure of the commissioner.

Eligibility for the selection is not dependent upon the parent law enforcement agency, if any, of the person selected. The assistant director is compensated in a manner equivalent to that of a captain in the State Police, with respect to both regular and overtime compensation. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. The assistant director reports directly to the director, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as assistant director.
[PL 1993, c. 680, Pt. B, §3 (RPR).]

2-A. Regional commanders.

[PL 1993, c. 680, Pt. B, §3 (RP).]

3. Commanders. There may be no more than 3 commanders within the agency who may exercise any powers the director may delegate. Each commander must be an experienced law enforcement officer appointed by the director with the concurrence of the commissioner and serves at the pleasure of the director. The appointment of commanders is not dependent upon the parent law enforcement agency, if any, of the person selected. Commanders are compensated from the budget of the agency in

a manner equivalent to that of a lieutenant in the State Police, with respect to both regular and overtime compensation. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. A commander reports directly to the director or assistant director, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as commander.
[PL 1993, c. 680, Pt. B, §3 (RPR).]

4. Task force investigative supervisors. Each task force is supervised by a task force investigative supervisor. Each supervisor must be an experienced law enforcement officer appointed by the director with the concurrence of the commissioner and serves at the pleasure of the director. The appointment of supervisors is not dependent upon the parent law enforcement agency, if any, of the person selected. Supervisors are compensated from the budget of the agency in a manner equivalent to that of a sergeant assigned to the State Police, with respect to both regular and overtime compensation. If the person selected is currently an employee of any state, county or local law enforcement agency, the person must be placed on a temporary assignment by the person's employing agency. A supervisor reports directly to the assistant director or a commander, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provision of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as supervisor.
[PL 1993, c. 680, Pt. B, §3 (RPR).]

5. Task force investigative agents. The investigative complement of each task force is comprised of task force investigative agents. Agents may be selected from municipal, county and state law enforcement agencies within the State and other state agencies, as long as the prospective agent is certified pursuant to section 2803-A, subsection 1; or may be other experienced law enforcement officers, as long as each is certified pursuant to section 2803-A, subsection 1. Agents are selected and appointed at the discretion of the director with the concurrence of the commissioner from among those persons nominated by the chief administrative officer of a prospective agent's employing agency and other experienced law enforcement officers who apply. Agents serve at the pleasure of the director. Agents receive compensation, paid from the budget of the agency, equivalent to that of a detective in the State Police, with respect to both regular and overtime compensation with the additional credit given to seniority based upon law enforcement experience. If the person selected as an agent is currently an employee of any municipal, county or state law enforcement agency, or any other state agency, the person must be placed on a temporary assignment by the person's employing agency. An agent reports directly to the task force supervisor, notwithstanding any existing command structure of the person's employing agency. Notwithstanding any other provisions of law, the person retains and continues to accrue seniority and retirement rights and benefits within the person's employing agency for the time in which the person serves as an agent.

Any person employed as a senior agent or special agent investigator within the State Police may be temporarily assigned to the agency. During that temporary assignment, the State Police retains the positions of senior agent and special agent investigator.

A. [PL 1993, c. 680, Pt. B, §3 (RP).]

B. [PL 1993, c. 680, Pt. B, §3 (RP).]

C. [PL 1993, c. 680, Pt. B, §3 (RP).]
[PL 1993, c. 680, Pt. B, §3 (RPR).]

6. Authority of agency officers. The director, assistant director, commanders, supervisors and agents are vested at the discretion of the commissioner with the following:

A. The authority throughout the State to arrest pursuant to Title 17-A, section 15; [PL 1993, c. 680, Pt. B, §3 (NEW).]

B. The same powers and duties throughout the several counties of the State as sheriffs have in their respective counties to serve criminal process, to investigate and prosecute violators of any law of this State and to arrest without warrant and detain persons found violating or attempting to violate any other penal law of the State until a warrant can be obtained. They have the same rights as sheriffs to require aid in executing the duties of their office; and [PL 1993, c. 680, Pt. B, §3 (NEW).]

C. The same powers and duties throughout the several counties of the State as sheriffs have in their respective counties to serve civil process in all matters relating to investigations or violations of Title 17-A, chapter 45 or actions arising under or initiated pursuant to Title 15, chapter 517. [PL 1993, c. 680, Pt. B, §3 (NEW).]

[PL 1993, c. 680, Pt. B, §3 (RPR).]

7. Task force attorneys. The Attorney General, the United States Attorney for the District of Maine and the respective district attorneys may assign as many of their assistants and special assistants as they determine to be appropriate to each of the task forces or to the agency generally. The attorneys must be available to the agency officers for purposes of ongoing consultation and advice on the propriety and legal consequences of methods of investigation and are responsible for coordinating, with the commanders and supervisors, the prosecutorial and investigative priorities of the task forces. The Attorney General shall appoint one assistant attorney general as a full-time coordinator of drug prosecution matters. That assistant attorney general is responsible to coordinate the efforts of each of the attorneys assigned to the agency.

[PL 1993, c. 680, Pt. B, §3 (RPR).]

8. Compensation; State Police personnel. Notwithstanding any other provision in this section, State Police officers, senior agents and special investigative agents who are temporarily assigned to the agency continue to be paid from the budget of the Bureau of State Police, except that any additional compensation arising from such a temporary assignment must be paid from the budget of the agency.

[PL 1993, c. 680, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 411, §5 (NEW). PL 1987, c. 666, §§7-9 (AMD). PL 1989, c. 522, §§1-5 (AMD). PL 1991, c. 154, §§1,2 (AMD). PL 1991, c. 837, §B13 (AMD). PL 1991, c. 837, §B19 (AFF). PL 1991, c. 841, §11 (AMD). PL 1993, c. 680, §B3 (RPR). PL 2021, c. 36, §§15-17 (AMD).

§2956. Authority of commissioner

1. Rules. The commissioner shall adopt rules, practices and policies respecting the administration of the agency. The rules, practices and policies of the agency must be in conformity with state law and must accomplish the goal of an integrated drug enforcement effort. These rules, practices and policies may include:

A. The qualifications, hiring, term of service and disciplinary standards for commanders, supervisors and agents; [PL 1999, c. 790, Pt. A, §32 (RPR).]

B. Protection as to financial and employment security for any law enforcement officer selected as any official of the agency with respect to the person's position with any municipal, county or state law enforcement policy or political subdivision; [PL 1999, c. 790, Pt. A, §32 (RPR).]

C. Standard operating procedures for the agency; [PL 1999, c. 790, Pt. A, §32 (RPR).]

D. Procurement procedures; or [PL 1999, c. 790, Pt. A, §32 (RPR).]

E. Procedures for dissemination of records. [PL 1999, c. 790, Pt. A, §32 (RPR).]

[PL 2021, c. 36, §18 (AMD).]

2. Grants and property. The commissioner may accept grants and property decreed forfeit by any court of competent jurisdiction.
[PL 1987, c. 411, §5 (NEW).]

3. Contracts or agreements. The commissioner may enter into contracts and agreements with municipal, county and state law enforcement agencies to accomplish the goal of the agency and carry out the rules, policies and practices of the agency.
[PL 1991, c. 837, Pt. B, §14 (AMD); PL 1991, c. 841, §12 (AMD).]

SECTION HISTORY

PL 1987, c. 411, §5 (NEW). PL 1987, c. 666, §10 (AMD). PL 1991, c. 837, §B14 (AMD). PL 1991, c. 841, §12 (AMD). PL 1999, c. 790, §A32 (AMD). PL 2021, c. 36, §18 (AMD).

§2957. Confidentiality

Notwithstanding any provision of law to the contrary, the investigative records of the agency are confidential. [PL 2021, c. 36, §19 (AMD).]

SECTION HISTORY

PL 1987, c. 411, §5 (NEW). PL 1991, c. 837, §B15 (AMD). PL 1991, c. 841, §13 (AMD). PL 1999, c. 790, §A33 (RPR). PL 2011, c. 662, §17 (AMD). PL 2021, c. 36, §19 (AMD).

§2958. Prosecution protocol

The Attorney General, after consultation with the 8 district attorneys, the United States Attorney for the District of Maine and the agency, shall establish by rule a protocol that governs the selection of the state or federal court system for prosecution of drug cases investigated by the agency. [PL 2021, c. 36, §20 (AMD).]

SECTION HISTORY

PL 1991, c. 837, §B16 (NEW). PL 1991, c. 841, §14 (NEW). PL 1999, c. 790, §D8 (RPR). PL 2021, c. 36, §20 (AMD).

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