



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1429

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H.P. 983

House of Representatives, April 13, 2017

### An Act Regarding the Epidemic of Opiate Abuse

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Submitted by the Department of the Attorney General pursuant to Joint Rule 204.  
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative GROHMAN of Biddeford.  
Cosponsored by Senator DION of Cumberland and  
Senators: CYRWAY of Kennebec, DESCHAMBAULT of York.

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

2 **Sec. 1. 15 MRSA §5826, sub-§6**, as amended by PL 1999, c. 408, §3, is further  
3 amended to read:

4 **6. Final order of disposition of property; public education campaign.** Following  
5 the entry of a verdict of forfeiture of property pursuant to this section or the entry of a  
6 guilty plea in open court on the record and following the court's disposition of all  
7 petitions for hearing timely filed by 3rd parties, the State has clear title to property that is  
8 the subject of the indictment, information or complaint. The final order must provide for  
9 the deposit of the property or the proceeds from the disposition of the property, less the  
10 reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of  
11 custody, advertising and notice, in the General Fund, except that, to the extent that the  
12 court finds it reasonable, the court may order forfeiture of as much of the property as is  
13 appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage,  
14 maintenance of custody, advertising and notice, to a municipality, county or state agency  
15 that has made a substantial contribution to the investigation or prosecution of a related  
16 criminal case or, upon request of the investigating agency or the prosecuting agency, to a  
17 law enforcement agency in this State that provides case management and other social  
18 services to persons with substance use disorders.

19 **Sec. 2. 17-A MRSA §1105-B, sub-§1, ¶D**, as enacted by PL 2003, c. 476, §5, is  
20 amended to read:

21 D. Death or serious bodily injury of another person is in fact caused by the use of  
22 ~~that counterfeit drug~~ one or more drugs and the drug furnished by the defendant is a  
23 contributing factor to the death or serious bodily injury of the other person.

24 **Sec. 3. 17-A MRSA §1105-C, sub-§1, ¶K**, as enacted by PL 2003, c. 476, §7, is  
25 amended to read:

26 K. Death of another person is in fact caused by the use of ~~that scheduled drug~~ one  
27 or more drugs and the drug ~~is a schedule W drug~~ furnished by the defendant is a  
28 contributing factor to the death of the other person. A violation of this paragraph is a  
29 Class B crime. It is an affirmative defense to prosecution under this paragraph that  
30 the drug furnished was lawfully possessed by the defendant prior to furnishing and  
31 that the death was not a reasonably foreseeable consequence of the use of that  
32 scheduled drug. In determining whether the death was reasonably foreseeable, the  
33 jury shall consider:

- 34 (1) The factual circumstances surrounding the furnishing of the drug;  
35 (2) The total quantity of the drug furnished;  
36 (3) The dosage of the units furnished;  
37 (4) The nature of the drug;  
38 (5) The overdose risk presented by use of the drug; and  
39 (6) Any safety warnings provided to the defendant at the time of dispensing the  
40 drug; or

