

MAINE STATE LEGISLATURE

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R. of S.

L.D. 56

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 47, L.D. 56, Bill, "An Act to Provide the Right to a Jury Trial in Civil Actions for Civil Rights Violations"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 5 MRSA §4681, as amended by PL 1995, c. 417, §1, is repealed and the following enacted in its place:

§4681. Violations of constitutional rights; civil action by Attorney General

1. Interference with rights; action by Attorney General. Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

2. Place and name of action. A civil action under subsection 1 must be brought in the name of the State and instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business or where the alleged violation occurred.

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2 3. Jury trial. There is a right to a jury at the trial of
3 an action on the merits under this section, but there is no right
4 to a jury at the hearing of an application for a preliminary
5 injunction or a temporary restraining order.

6 4. Civil penalty for violation. Each violation of this
7 section is a civil violation for which a civil penalty of not
8 more than \$5,000 for each defendant may be adjudged. These
9 penalties must be applied by the Attorney General in carrying out
10 this chapter.

11 5. Service of order or injunction. Each temporary
12 restraining order or preliminary or permanent injunction issued
13 under this section must include a statement describing the
14 penalties provided in this section for a knowing violation of the
15 order or injunction. The clerk of the Superior Court shall
16 transmit one certified copy of each order or injunction issued
17 under this section to the appropriate law enforcement agency
18 having jurisdiction over locations where the defendant is alleged
19 to have committed the act giving rise to the action, and service
20 of the order or injunction must be accomplished pursuant to the
21 Maine Rules of Civil Procedure. Unless otherwise ordered by the
22 court, service must be made by the delivery of a copy in hand to
23 the defendant.

24 6. Violation of restraining order or injunction. A person
25 who knowingly violates a temporary restraining order or
26 preliminary or permanent injunction issued under this section
27 commits a Class D crime.

28 Sec. 2. 5 MRSA §4682, as amended by PL 1995, c. 417, §2, is
29 repealed and the following enacted in its place:

30 §4682. Violations of constitutional rights; civil actions by
31 aggrieved persons

32 1. Interference with rights; private actions. Whenever any
33 person, whether or not acting under color of law, intentionally
34 interferes or attempts to intentionally interfere by physical
35 force or violence against a person, damage or destruction of
36 property or trespass on property or by the threat of physical
37 force or violence against a person, damage or destruction of
38 property or trespass on property with the exercise or enjoyment
39 by any other person of rights secured by the United States
40 Constitution or the laws of the United States or of rights
41 secured by the Constitution of Maine or laws of the State or
42 violates section 4684-B, the person whose exercise or enjoyment
43 of these rights has been interfered with, or attempted to be
44 interfered with, may institute and prosecute in that person's own
45 name.

name and on that person's own behalf a civil action for legal or equitable relief.

2. Place of action. The action under subsection 1 must be instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business.

3. Jury trial. There is a right to a jury at the trial of an action on the merits under this section, but there is no right to a jury at the hearing of an application for a preliminary injunction or a temporary restraining order.

4. Service of order or injunction. Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and service of the order or injunction must be accomplished pursuant to the Maine Rules of Civil Procedure. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

5. Violation of restraining order or injunction. A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The Department of the Attorney General and the Judicial Department will incur some minor additional costs to provide a right to a jury trial under certain circumstances. These costs can be absorbed within the departments' existing budgeted resources.'

SUMMARY

This amendment replaces the bill. It restructures the sections of the Maine Civil Rights Act relating to actions by the Attorney General and private citizens to make the sections easier to read. It also incorporates changes made by the bill to

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2 specify where private actions must be brought and to provide for
a right to a jury trial in actions under the Act. Finally, it
4 amends the language of the bill to provide that the right to a
jury trial does not apply to a hearing on an application for a
temporary restraining order or a preliminary injunction.