

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 34

S.P. 14

In Senate, January 6, 2005

An Act To Institute Loser-pay Litigation in the State of Maine

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLUKEY of Aroostook.
Cosponsored by Senator DAMON of Hancock, Representative BRYANT-DESCHENES of Turner, Representative SHERMAN of Hodgdon and
Senators: DAVIS of Piscataquis, DOW of Lincoln, SAVAGE of Knox, Representative:
CROSTHWAITE of Ellsworth.

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

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3 **Sec. 1. 14 MRSA §1502-B, sub-§§4 and 5.** as enacted by PL 1985,
4 c. 384, §4, are amended to read:

6 **4. Travel expenses.** Reasonable expenses of travel within
7 the State to the place of trial for the prevailing party or his
8 the prevailing party's attorney of record, as provided by rule of
9 the Supreme Judicial Court, or as directed by court, in the
10 absence of that rule; and

12 **5. Other costs.** Such other costs as the Supreme Judicial
13 Court may direct by rule; and

14 **Sec. 2. 14 MRSA §1502-B, sub-§6** is enacted to read:

16 **6. Attorney's fees.** The reasonable attorney's fees
17 incurred by the prevailing party in prosecuting or defending the
18 action.

20 A. Attorney's fees under this subsection must be paid by
21 the nonprevailing party but may not exceed the amount of the
22 attorney's fees of the nonprevailing party with regard to
23 that position or claim.

26 B. If the nonprevailing party receives services under a
27 contingent fee agreement, the amount of attorney's fees
28 under this paragraph may not exceed the reasonable value of
29 those services.

30 C. In order to receive attorney's fees under this
31 subsection, the attorney of record for the prevailing party
32 must maintain accurate, complete records of hours worked on
33 the matter regardless of the fee arrangement with the
34 prevailing party.

36 D. As used in this subsection, the term "prevailing party"
37 means a party to an action who obtains a favorable final
38 judgment, other than by settlement and exclusive of
39 interest, on all or a portion of the claims asserted in the
40 action.

42 E. The court may, in its discretion, limit the fees
43 recovered under this subsection to the extent that the court
44 finds special circumstances that make payment of those fees
45 unjust.

48 F. This subsection does not apply to any action in which
49 the State or any of its officers or agencies are parties.

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SUMMARY

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This bill requires that the losing party in civil litigation pay the reasonable attorney's fees of the prevailing party.

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