

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
132ND LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 797, L.D. 1222, "An Act to Limit Sovereign Immunity for Schools and School Superintendents"

Amend the bill by striking out the title and substituting the following:

'An Act to Limit Sovereign Immunity for School Administrative Units and School Superintendents'

Amend the bill by inserting after the title and before the enacting clause the following:

**'Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Amend the bill in section 3 in subsection 5 in the last line (page 1, line 10 in L.D.) by striking out the following: "subsection 1" and inserting the following: 'subsection 2'

Amend the bill in section 4 in subsection 3 in the last line (page 1, line 21 in L.D.) by striking out the following: "subsection 1" and inserting the following: 'subsection 2'

Amend the bill by striking out all of section 5 and inserting the following:

'Sec. 5. 14 MRSA §8104-E is enacted to read:

**§8104-E. School administrative units and school superintendents**

**1. Definitions.** For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Failure to report" includes any act of suppressing, delaying or discouraging a staff member, student or parent from reporting abuse or misconduct or ignoring abuse or misconduct.

B. "Grooming behavior" means any deliberate conduct intended to establish an emotional connection or trust with a minor for the purpose of sexual abuse, exploitation or manipulation.

C. "Gross negligence" includes reckless disregard or conscious indifference to a known or obvious risk to student safety.

**2. Limited immunity for school administrative units and school superintendents.**

Notwithstanding the provisions of section 8103, this chapter does not grant immunity to a school administrative unit or school superintendent for tort claims seeking recovery of damages based on the following conduct:

A. A discretionary policy decision involving gross negligence or willful misconduct;

B. A failure to act on known or reported sexual misconduct, grooming behavior, abuse or exploitation involving any student or staff member under the school administrative unit's or school superintendent's authority;

C. A failure to report suspected abuse or neglect to a law enforcement agency or the Department of Health and Human Services as required under subsection 4 and Title 22, section 4011-A;

D. Knowingly reassigning, rehiring or concealing an individual who is the target of a credible investigation for misconduct that could endanger students;

E. Willful misconduct; or

F. Criminal activity.

**3. Notice required.** A complaint for conduct under subsection 2, paragraphs A to F may not be filed unless the plaintiff has provided written notice to the school administrative unit or school superintendent at least 60 days prior to filing the complaint. The school administrative unit or school superintendent may investigate or resolve the matter through mediation or administrative review during the notice period under this subsection.

**4. School employees and staff members.** This section does not apply to school employees or staff members, including teachers, acting within the course and scope of employment for the school administrative unit, except in cases of gross negligence, willful misconduct or criminal activity. A school administrative unit shall indemnify all staff members and employees for a claim arising out of an act by a school administrative unit staff member or employee performing an official duty.

**5. Mandatory reporting.** Each school administrative unit shall establish, publish and enforce a mandatory reporting policy consistent with the Child and Family Services and Child Protection Act, including requirements to:

A. Investigate credible complaints of educator misconduct;

B. Promptly report known or suspected abuse or grooming behavior to an appropriate law enforcement agency not within the school administrative unit and to the Department of Health and Human Services;

C. Maintain documentation regarding outcomes of educators' misconduct complaints or disciplinary action taken against educators based on those complaints; and

D. Prevent the reassignment of any school employee or staff member under investigation for misconduct.

Failure to comply with this subsection may be considered grounds for civil liability under subsection 2.

**6. Liability insurance.** A school administrative unit shall maintain liability insurance coverage sufficient to cover a potential claim involving conduct under subsection 2, paragraphs A to F. The Department of Education may establish a fund or provide other financial support to a school administrative unit to carry out the purposes of this subsection.

**7. Report.** Beginning October 1, 2027 and annually thereafter, the Department of Education shall submit a report to the joint standing committee of the Legislature having jurisdiction over education matters on the impact and effectiveness of this section.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

### SUMMARY

This amendment changes the title of the bill and clarifies the bill's provisions that immunity under the Maine Tort Claims Act does not apply to school administrative units and school superintendents for certain conduct involving a discretionary policy involving failure to report gross negligence, willful misconduct or criminal activity. The amendment also requires the establishment of a mandatory reporting policy for any credible complaint of educator misconduct, including suspected abuse or grooming behavior.

The amendment also adds a mandate preamble.

### FISCAL NOTE REQUIRED

(See attached)



Approved: 05/09/25 **LRL**

# 132nd MAINE LEGISLATURE

LD 1222

LR 1618(02)

## An Act to Limit Sovereign Immunity for Schools and School Superintendents

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-555)

Committee: Judiciary

Fiscal Note Required: Yes

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### Fiscal Note

Potential State Mandate - Unfunded

#### Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time. The collection of additional filing fees will increase General Fund revenue by minor amounts.

#### State Mandates

##### Required Activity

Removes immunity under the Maine Tort Claims Act for school superintendents, school administrative units (SAUs) or schools within the SAU's jurisdiction for certain conduct thus expanding the areas in which SAUs may potentially need legal services. Requires SAUs to maintain liability insurance coverage sufficient to cover potential claims that may occur as a result of the removed immunity.

##### Unit Affected

School

##### Local Cost

Significant statewide

The required local activities in this bill may represent a state mandate pursuant to the Constitution of Maine. If the bill does require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue, the state mandate provisions of the Constitution of Maine require either: (1) General Fund appropriations be provided to fund at least 90% of any additional necessitated local costs of the mandate; or (2) a Mandate Preamble be added to the bill and two-thirds of the members of each House vote to exempt the mandate from the funding requirement. If the bill does represent a state mandate and neither one of these actions occurs, the local units of government will not be required to implement the mandated activities.

#### Fiscal Detail and Notes

Additional costs to the Department of Education to submit the required report beginning in fiscal year 2027-28 can be absorbed within existing budgeted resources.