

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 829

6
7 H.P. 655

House of Representatives, February 22, 1983

8 Referred to the Committee on Judiciary. Sent up for concurrence and
9 ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative McGowan of Pittsfield.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Amend the Maine Tort Claims Act.
18

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

21 Sec. 1. 14 MRSA §8104-A is enacted to read:

22 §8104-A. Liability of governmental entity for tor-
23 tious acts of employees

24 A governmental entity shall be liable for the
25 tortious conduct of its employees, including their
26 negligent and intentional acts or omissions, which
27 occur in the performance of their discretionary
28 duties and functions, in all instances except those
29 involving damage to real or personal property, bodily
30 injury or death, unless otherwise permitted under
31 this chapter.

32 Sec. 2. 14 MRSA §8111, sub-§1, ¶C, as enacted by
33 PL 1977, c. 2, §2, is amended to read:

1 C. The performance or failure to exercise or
2 perform a discretionary function or duty, whether
3 or not the discretion is abused; and whether or
4 not the statute, charter, ordinance, order, reso-
5 lution, regulation or resolve under which the
6 discretionary function or duty is performed is
7 valid. Employees of governmental entities, in the
8 performance of their discretionary duties or
9 functions, shall be liable for tortious conduct,
10 including their negligent and intentional acts or
11 omissions, in all instances except those involv-
12 ing damage to real or personal property, bodily
13 injury or death, unless otherwise permitted under
14 this chapter.

15 STATEMENT OF FACT

16 State and municipal agencies, officials and
17 employees are intruding more and more into the pri-
18 vate sector at public expense. They are at present
19 shielded from responsibility for their actions while
20 engaged in the performance of their duties. This bill
21 places the same burden of responsibility on the
22 public sector as now exists in the private sector.

23 This bill makes it possible for the public to
24 bring suit against public agencies, officials or
25 employees for making libelous or slanderous state-
26 ments or for irresponsible acts, errors or omissions,
27 torts, just as members of the public may be sued.

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