

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1115
6

7 H.P. 782

House of Representatives, March 22, 1985

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

10 EDWIN H. PERT, Clerk

Presented by Representative Priest of Brunswick.

11 Cosponsored by Representative Stetson of Damariscotta, Senator
Maybury of Penobscot and Senator Trafton of Androscoggin.

12 STATE OF MAINE
13

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

17 AN ACT to Encourage Retraction of Defamatory
18 Statements.
19

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

22 Sec. 1. 14 MRSA §152 is repealed.

23 Sec. 2. 14 MRSA §153-A is enacted to read:

24 §153-A. Notice of libel claim

25 No action for libel based on a public communica-
26 tion by graphic or electronic means may be maintained
27 unless the person claiming injury previously served
28 upon the defendant, no later than 180 days after the
29 claim arose, and no sooner than 90 days before com-
30 mencing an action, a notice in writing identifying
31 the writing, publication, or broadcast on which the
32 claim is based, the specific contents claimed to be
33 defamatory and the persons claimed to have been de-
34 famed.

1 Sec. 3. 14 MRSA §154 is repealed.

2 STATEMENT OF FACT

3 Decisions of Maine's Law Court based on the First
4 Amendment to the United States Constitution and fol-
5 lowing a series of United States Supreme Court deci-
6 sions, have made certain sections of the Maine Re-
7 vised Statutes obsolete.

8 The Maine Revised Statutes, Title 14, sections
9 152 and 154, which this bill repeals, are based on a
10 view of truth as a defense to libel that has been
11 supplanted by these developments in constitutional
12 law as they have been applied in the State. Both
13 sections treat truth as a matter to be proven by the
14 defendant and as a defense that will be lost if the
15 defendant has evil motives. At least in this State
16 and in most other states, the plaintiff must prove at
17 least that the statement complained of was false, re-
18 gardless of the motives of the defendant. The devel-
19 opment of the modern law of libel is now occurring in
20 the courts as a result of constitutional interpreta-
21 tions. These sections, which date from the 19th cen-
22 tury, only serve to confuse these matters.

23 Section 2 of this bill enacts a requirement that
24 the media be notified promptly of complaints about
25 statements claimed to be defamatory. The increasing
26 number of libel suits, the increasing size of jury
27 verdicts in these cases, and the frequency with which
28 those jury verdicts are reversed by appellate courts,
29 show that it would be desirable to require parties
30 who claim to have been defamed by the media to act
31 promptly in calling attention to the offensive publi-
32 cation and identifying the exact statements claimed
33 to be defamatory. This gives the media an opportuni-
34 ty to retract while the story is still fresh. It also
35 helps to eliminate litigation undertaken as an after-
36 thought.

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