

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1145  
6

7 S.P. 415

In Senate, March 27, 1985

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

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Chalmers of Knox.

11 Cosponsored by Representative Nelson of Portland, Senator Bustin of  
Kennebec and Representative Melendy of Rockland.

12 STATE OF MAINE  
13

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

17 AN ACT to Protect Works of Art.  
18

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

21 27 MRSA §303 is enacted to read:

22 §303. Preservation of works of art

23 1. Definitions. As used in this section, unless  
24 the context indicates otherwise, the following terms  
25 have the following meanings.

26 A. "Artist" means the creator of the work of  
27 fine art.

28 B. "Conservation" means acts taken to correct  
29 deterioration and alteration and acts taken to  
30 prevent, stop or retard deterioration.

31 C. "Reproduction" means a copy, in any medium,  
32 of a work of fine art, that is displayed or pub-

1 lished under circumstances that, reasonably con-  
2 strued, evinces an intent that it be taken as a  
3 representation of a work of fine art as created  
4 by the artist.

5 D. "Work of fine art" means any original work of  
6 visual or graphic art of any medium which in-  
7 cludes, but is not limited to, painting, drawing,  
8 print, photographic print or sculpture of a lim-  
9 ited edition of no more than 300 copies. "Work of  
10 fine art" does not include sequential imagery,  
11 such as that in motion pictures.

12 2. Public display; publication and reproduction  
13 of works of fine art. Except as provided in subsec-  
14 tion 4, no person, other than the artist or a person  
15 acting with the artist's consent, may knowingly dis-  
16 play in a place accessible to the public or publish a  
17 work of fine art of that artist or a reproduction of  
18 a work of fine art of that artist in an altered, de-  
19 faced, mutilated or modified form if the work is dis-  
20 played, published or reproduced as being the work of  
21 the artist or under circumstances under which it  
22 would reasonably be regarded as being the work of the  
23 artist, and damage to the artist's reputation is rea-  
24 sonably likely to result from the display, publica-  
25 tion or reproduction.

26 3. Artist's authorship rights. Except as pro-  
27 vided in subsection 4, the artist shall retain at all  
28 times the right to claim authorship or, for just and  
29 valid reason, to disclaim authorship of his work of  
30 fine art. The right to claim authorship includes the  
31 right of the artist to have his name appear on or in  
32 connection with the work of fine art as the artist.  
33 The right to disclaim authorship includes the right  
34 of the artist to prevent his name from appearing on  
35 or in connection with the work of fine art as the  
36 artist. Just and valid reason for disclaiming author-  
37 ship includes the fact that the work of fine art has  
38 been altered, defaced, mutilated or modified other  
39 than by the artist, without the artist's consent, and  
40 damage to the artist's reputation is reasonably like-  
41 ly to result or has resulted. The rights created in  
42 this subsection exist in addition to any other rights  
43 available under law.

1 4. Limitations of applicability. The following,  
2 in and of themselves, do not constitute a violation  
3 of subsection 2 or create a right to disclaim author-  
4 ship pursuant to subsection 3:

5 A. Alteration, defacement, mutilation or modifi-  
6 cation of a work of fine art resulting from the  
7 passage of time or the inherent nature of the ma-  
8 terials, provided that the alteration, deface-  
9 ment, mutilation or modification is not the re-  
10 sult of gross negligence in maintaining or pro-  
11 tecting the work of fine art; or

12 B. In the case of a reproduction, a change that  
13 is an ordinary result of the medium of reproduc-  
14 tion.

15 Conservation is not an alteration, defacement, muti-  
16 lation or modification within the meaning of this  
17 section, unless the conservation work can be shown to  
18 be negligent.

19 This section does not apply to work prepared under  
20 contract for advertising or trade use, unless the  
21 contract so provides.

22 This section only applies to works of fine art know-  
23 ingly displayed in a place accessible to the public,  
24 published or reproduced in this State.

25 5. Relief. An artist aggrieved under subsection  
26 2 or 3 shall have a cause of action for legal and in-  
27 junctive relief. No action may be maintained to en-  
28 force any liability under this section unless brought  
29 within 3 years of the act complained of.

30 STATEMENT OF FACT

31 This bill provides artists with a right of action  
32 for legal or injunctive relief to protect and pre-  
33 serve works of art.

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