

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1820

6
7 H.P. 1304

House of Representatives, January 13, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Manning of Portland.

Cosponsored by Representative Allen of Washington, Representative
Paradis of Augusta and Senator Chalmers of Knox.

11
12 STATE OF MAINE
13

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

17 AN ACT to Clarify the Applicability of the
18 Maine Tort Claims Act.
19

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

22 14 MRSA §8102, sub-§2-A is enacted to read:

23 2-A. Permitted by this chapter or permitted un-
24 der this chapter. "Permitted by this chapter" or
25 "permitted under this chapter" as applied to claims
26 or actions against a governmental entity or its em-
27 ployees shall be construed to include all claims or
28 actions expressly authorized by this Act against a
29 governmental entity and all common law claims or ac-
30 tions against employees for which immunity is not ex-
31 pressly provided by this Act.

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STATEMENT OF FACT

2 Recent Superior Court cases have construed the
3 terms "permitted by this chapter" and "permitted under
4 under this chapter" as used in the Maine Tort Claims
5 Act in a manner inconsistent with the Legislature's
6 intent to make protections under the Act applicable
7 to governmental employees. When the Legislature en-
8 acted the Maine Tort Claims Act in 1977, it
9 envisioned the Act as a comprehensive statement of
10 areas of immunity from tort liability for both gov-
11 ernmental entities and their employees. Superior
12 Court constructions of the terms "permitted by this
13 chapter" and "permitted under this chapter" as used
14 in the Act have resulted in the imposition of tort
15 liability upon governmental employees who previously
16 were thought to have been immune from the liability.
17 This bill clarifies and confirms the applicability of
18 the procedural protections and limitations on damages
19 provided by the Maine Tort Claims Act to all actions
20 brought against governmental employees.

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