# MAINE STATE LEGISLATURE

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#### FIRST REGULAR SESSION

#### ONE HUNDRED AND THIRTEENTH LEGISLATURE

## Legislative Document

NO'. 923

H.P. 682 House of Representatives, March 25, 1987 Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk Presented by Representative PARADIS of Augusta. Cosponsored by Representative CONLEY of Portland, Senators BRANNIGAN of Cumberland and PERKINS of Hancock.

### STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-SEVEN

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AN ACT to Amend the Maine Tort Claims Act.

- Sec. 1. 14 MRSA §8112, sub-\$1, as repealed and
  replaced by PL 1977, c. 578, §4, is amended to read:
- 1. When the governmental entity is not liable. A governmental entity may,-in-its-discretion-and, with the consent of the employee, shall assume the defense of and may shall indemnify any employee against a claim which arises out of an act or omission occur-
- ring within the course or scope of his employment and for which the governmental entity is not liable, sub-
- 14 ject to subsection 2.

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	acted in its place:	en-
4	3. Act or omission outside course or scope	of
5	employment. When a governmental entity assumes	the
6	defense of an employee under subsection 1 or 2,	
7	governmental entity may refuse to indemnify its	em-

ployee if the court determines that the act or

1977, c. 578, §4, is repealed.

to indemnify them.

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26 27 Sec. 2. 14 MRSA §8112, sub-§3, as enacted by

scope of his employment.
Sec. 3. 14 MRSA §8112, sub-§4, as enacted by PI

sion of the employee occurred outside the course or

## STATEMENT OF FACT

14 A recent court decision demonstrated that public 15 employees performing sensitive work mandated by law 16 are open to allegations of constitutional and inten-17 tional torts, but have no assurance under the 18 that the governmental entity will defend them against 19 the allegations. This bill provides that the govern-20 mental entity shall defend these employees and indem-21 nify them if they are acting within the course and 22 scope of their employment. If they are found by the 23 court to be acting outside the course and scope of 24 their employment, the governmental entity may refuse

This bill expands protection of state employees and reduces the scope of protection by the State.

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