

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

R of S

1  
2

L.D. 1787  
(Filing No. S-188)

3  
4  
5  
6

STATE OF MAINE  
SENATE  
113TH LEGISLATURE  
FIRST REGULAR SESSION

7  
8

SENATE AMENDMENT "C" to H.P. 1309, L.D. 1787,  
Bill, "AN ACT to Revise the Harassment Law."

9  
10  
11  
12

Amend the bill in section 1, in that part designated "§4651." by striking out all of subsections 1 to 4 (page 2, lines 1 to 25 in L.D.) and inserting in their place the following:

13  
14

'1. Court. "Court" means any District Court or Superior Court.'

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

2. Harassment. "Harassment" means any repeated act of intimidation, harassment, physical force or threat of physical force whether or not performed under color of law, directed against any person, family or their property or advocate with the intention of causing fear or intimidation or to deter free exercise or enjoyment of any rights or privileges secured by the Constitution of Maine and the United States Constitution. This definition does not include any act protected by the constitutional guarantee of free speech.

26  
27  
28

3. Law enforcement agency. "Law enforcement agency" means the State Police, a sheriff's department or a municipal police department.'

29  
30  
31  
32  
33

Further amend the Bill in section 1, in that part designated "§4653." in subsection 1, in the first line (page 2, line 36 in L.D.) by striking out the following: "adult" and inserting in its place the following: 'person'

34  
35  
36  
37

Further amend the bill in section 1, in that part designated "§4654." by striking out all of subsection 2 (page 3, lines 15 to 27 in L.D.) and inserting in its place the following:

SENATE AMENDMENT "C " to H.P. 1309, L.D. 1787

1           '2. Temporary orders. The court may enter any  
2 temporary orders, authorized under subsection 4,  
3 without written or oral notice to the defendant or  
4 his attorney if:

5           A. It appears clearly from an affidavit accompa-  
6 nying the petition that:

7                   (1) Before the defendant or his attorney  
8 can be heard, the plaintiff may be in imme-  
9 diat and present danger of physical abuse  
10 from the defendant or may suffer extreme  
11 emotional distress as a result of the de-  
12 fendant's conduct;

13                   (2) Either the plaintiff has or has not  
14 contacted any law enforcement officials con-  
15 cerning the alleged harassment; and

16                   (3) The plaintiff has provided sufficient  
17 information to substantiate the alleged  
18 harassment;

19           B. When reasonable, the plaintiff or the court  
20 has made reasonable efforts to give written or  
21 oral notice to the defendant or his attorney that  
22 the plaintiff is seeking a temporary order; and

23           C. The court provides written reasons for enter-  
24 ing a temporary order.'

25           Further amend the bill in section 1, in that part  
26 designated "§4654." in subsection 3, paragraph A, in  
27 the 5th and 6th lines (page 3, lines 34 and 35 in  
28 L.D.) by striking out the following: "showing of good  
29 cause, as defined in" and inserting in its place the  
30 following: 'meeting of the requirements of'

31           Further amend the bill in section 1, in that part  
32 designated "§4655." in subsection 1, paragraph D, in  
33 the last line (page 5, line 27 in L.D.) by inserting

SENATE AMENDMENT " C " to H.P. 1309, L.D. 1787

1 after the underlined word "awarded" the following: '  
2 If it appears from the petition that an order under  
3 this paragraph may be granted, the plaintiff or de-  
4 fendant may remove the issue of monetary compensation  
5 to the Superior Court where a jury trial may be had.  
6 Removal shall be requested by motion prior to a hear-  
7 ing under section 4654'

8 Further amend the bill in section 1, in that part  
9 designated "\$4660." in subsection 5, in the 3rd line  
10 from the end (page 8, line 26 in L.D.) by striking  
11 out the following: "208" and inserting in its place  
12 the following: '207'

13 Further amend the Bill in section 2, in that part  
14 designated "\$2931" by striking out all of the first  
15 paragraph (page 9, lines 11 to 23 in L.D.) and in-  
16 sserting in its place the following:

17 'No person, whether or not acting under color of  
18 law, may, by force or threat of force, intentionally  
19 injure, intimidate or interfere with, or intentional-  
20 ly attempt to injure, intimidate or interfere with or  
21 intentionally oppress or threaten any other person in  
22 the free exercise or enjoyment of any right or privi-  
23 lege, secured to him by the Constitution of Maine or  
24 laws of the State or by the United States Constitu-  
25 tion or laws of the United States.'

26 Further amend the bill by inserting before the  
27 statement of fact the following:

28 'Sec. 4. Appropriation. The following funds are  
29 appropriated from the General Fund to carry out the  
30 purposes of this Act.

31 1988-89

32 JUDICIAL DEPARTMENT

33 Courts-Supreme, Supe-  
34 rior

R of 8

SENATE AMENDMENT " C " to H.P. 1309, L.D. 1787

1	District and Adminis-	
2	trative	
3	Personal Services	\$23,114

4 FISCAL NOTE

5 This bill provides funds to the court system for  
6 part-time help to process the additional case load  
7 estimate to occur as a result of this bill. Due to  
8 the delayed effective date of the bill and the time  
9 needed to begin processing these cases, no funding is  
10 necessary in fiscal year 1987-88.'

11 STATEMENT OF FACT

12 This amendment strengthens the findings a court  
13 must make before issuing a temporary order to protect  
14 the plaintiff from harassment if the defendant does  
15 not receive notice. The court must find that the  
16 plaintiff may be in immediate and present danger of  
17 physical abuse or may suffer extreme emotional dis-  
18 tress. The court must find that the plaintiff has  
19 indicated whether or not he has contacted law en-  
20 forcement officials. The court must find the plain-  
21 tiff has presented sufficient evidence to substanti-  
22 ate the alleged harassment. When reasonable, the  
23 plaintiff or court shall make an effort to notify the  
24 defendant that the plaintiff is seeking a temporary  
25 order. The court must provide written reasons for  
26 its temporary order.

27 The amendment also permits a plaintiff or defend-  
28 ant to have a jury trial when monetary compensation  
29 is sought for harassment.

30 Finally, the amendment changes an incorrect ref-  
31 erence to the assault offenses. This change makes it  
32 clear that, when an assault involves harassment, a

R. of S.

SENATE AMENDMENT "C " to H.P. 1309, L.D. 1787

1 law enforcement officer may arrest the assaulter  
2 based on probable cause, but without a warrant or the  
3 crime occurring in the officer's presence.

4

3463061187

5

(Sen. Gauvreau)

6

SPONSORED BY: 

7

COUNTY: Androscoggin