

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)



114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 1850

H.P. 1333

House of Representatives, December 8, 1989

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

Received by the Clerk of the House on December 8, 1989. Referred to the Committee on Legal Affairs and 1600 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

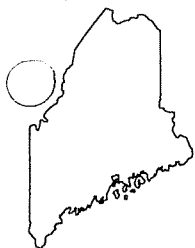
Presented by Representative KETOVER of Portland.

Cosponsored by Senator BRANNIGAN of Cumberland and Senator HOBBS of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

Resolve, Authorizing Robert Pineo of Old Orchard Beach to Bring a Civil Action against the State and the Department of Corrections.



2 **Action against the State and the Department of Corrections**
3 **authorized. Resolved:** That, notwithstanding the Maine Tort Claims
4 Act, the Maine Revised Statutes, Title 14, chapter 741, Robert
5 Pineo, of Old Orchard Beach, be authorized to bring suit against
6 the State and the Department of Corrections for damages caused by
7 the alleged negligence of the State and the Department of
8 Corrections. Robert Pineo was sentenced to the Maine
9 Correctional Center at Windham and began his sentence on or about
10 February 5, 1988. He had Crohn's disease when he was admitted to
11 the Maine Correctional Center about which the Maine Correctional
12 Center was advised. It is alleged that during his incarceration
13 and due to the negligence of the Maine Correctional Center and
14 the State, Robert Pineo was denied necessary medications and
15 treatment, necessary sanitary facilities, hot and cold running
16 water, prompt and proper medical care and diet and was subjected
17 to cruel and unusual punishment. All of the foregoing treatment
18 and facilities were necessary to maintain his health and
19 well-being. As a result of the negligence of the State, Robert
20 Pineo underwent multiple surgical procedures including the
21 permanent removal of his large intestines, the total removal of
22 his rectum, a permanent ileostomy, treatment of numerous
23 postoperative infections and other complications requiring
24 hospitalization and revision of the ileostomy. These surgical
procedures occurred in 1988 and 1989.

26 Action is to be brought within one year of the passage of
27 this resolve in the Superior Court of Cumberland County.
28 Liability and damages shall be determined according to state law
29 as in any action between individuals. The complaint issuing out
30 of the Superior Court under the authority of this resolve shall
31 be served on the Secretary of State by attested copy by the
32 sheriff or the sheriff's deputies in any county in the State.
33 The Attorney General is authorized and designated to appear,
34 answer and defend this action.

36 Any judgment that may be awarded in this civil action
37 against the State or the Department of Corrections shall be
38 payable from the Treasurer of State on final process issued by
39 the Superior Court or, if applicable, the Supreme Judicial
40 Court. Total recovery by Robert Pineo in this action from all
41 sources shall not exceed an aggregate of \$500,000 plus hospital
42 and medical expenses. Hearing shall be before a Justice of the
43 Superior Court with or without a jury.

44 Nothing in this resolve may be construed to increase the
45 limitations on liability of, or to diminish the defenses of, any
46 employee of the State or any employee of the Department of
47 Corrections under the Maine Tort Claims Act.
48

2

4

STATEMENT OF FACT

6

This resolve will allow Robert Pineo, of Old Orchard Beach, to bring a civil action against the State for alleged negligence in treating a medical ailment during his period of incarceration at the Maine Correctional Center.

8

10

12