

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1990

Legislative Document

No. 54

H.P. 38

House of Representatives, December 18, 1990

Reference to the Committee on Judiciary suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative DiPIETRO of South Portland.
Cosponsored by Senator GILL of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Limit Judicial Immunity in Certain Domestic Relations
Matters.**



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

2
4 Sec. 1. 14 MRSA §8103, sub-§4 is enacted to read:

6 4. Exception of certain judicial acts. Notwithstanding
8 subsection 1, section 8104-A and section 8104-B, a judge or
10 justice who violates Title 19, section 752, subsection 7, is not
12 immune from suit on any tort claim seeking recovery of damages.

14 Sec. 2. 14 MRSA §8104-B, sub-§2, as enacted by PL 1987, c.
16 740, §4, is amended to read:

18 2. Undertaking of judicial act. Undertaking or failing to
20 undertake any judicial or quasi-judicial act, including, but not
22 limited to, the granting, granting with conditions, refusal to
24 grant or revocation of any license, permit, order or other
26 administrative approval or denial, but excluding a judicial act
28 as provided in section 8103, subsection 4;

30 Sec. 3. 19 MRSA §752, sub-§7, as enacted by PL 1983, c. 813,
32 §5, is amended to read:

34 7. Equal consideration of parents. The court may not apply
36 a preference for one parent over the other in determining
38 parental rights and responsibilities because of the parent's sex
or the child's age or sex. A judge or justice who applies a
preference for one parent over the other in violation of this
subsection forfeits the protection of immunity from civil
liability as provided in Title 14, chapter 741.

STATEMENT OF FACT

34 This bill removes the governmental immunity provided by the
36 Maine Tort Claims Act from a judge or justice who, in determining
38 parental rights and responsibilities with respect to a minor,
applies a preference for one parent over the other because of the
parent's sex in violation of the Maine Revised Statutes, Title 19.