

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 2318

(Filing No. S-651 )

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STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 899, L.D. 2318, Bill, "An Act to Amend the Maine Civil Rights Law Regarding Violations of Constitutional Rights"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §4681, as enacted by PL 1989, c. 582, is amended to read:

**§4681. Violations of constitutional rights; civil action by Attorney General**

Whenever any person, whether or not acting under color of law, intentionally interferes by physical force or violence or the threat,--intimidation--or--exercise of physical force or violence or attempts to intentionally interfere by physical force or violence or the threat,--intimidation--or--exercise, of physical force or violence with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured. The civil action shall must be brought in the name of the State and ~~shall-be~~ instituted in the Superior Court for the county where the alleged violator resides or has a principal place of business.

Sec. 2. 5 MRSA §4682, as enacted by PL 1989, c. 582, is repealed and the following enacted in its place:

**COMMITTEE AMENDMENT**

2 **§4682. Violations of constitutional rights; civil actions by**  
3 **aggrieved persons**

4 Whenever any person, whether or not acting under color of  
5 law, intentionally interferes by physical force or violence or  
6 the threat of physical force or violence or attempts to  
7 intentionally interfere by physical force or violence or the  
8 threat of physical force or violence with the exercise or  
9 enjoyment by any other person of rights secured by the United  
10 States Constitution or the laws of the United States or of rights  
11 secured by the Constitution of Maine or laws of the State, the  
12 person whose exercise or enjoyment of these rights has been  
13 interfered with, or attempted to be interfered with, may  
14 institute and prosecute in that person's own name and on that  
15 person's own behalf a civil action for legal or equitable relief.

16 **Sec. 3. 5 MRSA §§4684 and 4685** are enacted to read:

17 **§4684. Application includes interference by private parties**

18  
19  
20 For the purposes of this chapter and Title 17, section 2931,  
21 rights secured by the Constitution of the United States and the  
22 laws of the United States and by the Constitution of Maine and  
23 the laws of the State include rights that would be protected from  
24 interference by governmental actors regardless of whether the  
25 specific interference complained of is performed or attempted by  
26 private parties.

27 **§4685. Short title**

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29  
30 This chapter may be known and cited as the "Maine Civil  
31 Rights Act."

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36 **STATEMENT OF FACT**

37  
38 This amendment replaces the bill. It narrows the type of  
39 situation in which the Attorney General may bring a civil action  
40 for relief and ensures that an aggrieved party can bring a suit  
41 on his or her own behalf for the same range of conduct that is  
42 actionable by the Attorney General.

43  
44 Current law authorizes the Attorney General or an aggrieved  
45 party to bring suit for relief for the interference by threat,  
46 intimidation or coercion, or attempted interference, with rights  
47 secured by the United States Constitution, the Constitution of  
48 Maine or by federal or state law. This amendment revises that  
49 provision to limit the actionable situations to those in which  
50 the interference is by physical force or violence or by the  
threat of physical force or violence.

R. of S.

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2 The amendment repeals and replaces the language governing  
4 suits by aggrieved parties to make it parallel to the language  
applicable to Attorney General's actions.

6 This amendment addresses a problem resulting from the  
8 Supreme Judicial Court's decision in Phelps v. President and  
Trustees of Colby College, 595 A.2d 403 (Me. 1991). The court  
10 interpreted the Maine civil rights laws as not providing  
12 protection against interference or attempted interference with  
rights by nongovernmental actors. The amendment amends the Maine  
14 Civil Rights Act to clearly state that the protections against  
interference with civil rights apply to actions by private  
16 actors who intentionally interfere with or attempt to interfere  
with constitutional or civil rights as provided in the Maine  
18 Civil Rights Act are subject to suit by the Attorney General or  
by the aggrieved parties. This clarification is extended to the  
20 crime of harassment based on characteristics, defined in Title  
17, section 2931.

22 The amendment also formally supplies the title of "Maine  
24 Civil Rights Act" to the law.

Reported by Senator Berube for the Committee on Judiciary.  
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(3/19/92) (Filing No. S-651)

**COMMITTEE AMENDMENT**