

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2318

S.P. 899

In Senate, February 11, 1992

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GAUVREAU of Androscoggin
Cosponsored by Representative OTT of York and Representative JACQUES of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Amend the Maine Civil Rights Law Regarding Violations of
Constitutional Rights.**



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

2
3 Sec. 1. 5 MRSA §4681, as enacted by PL 1989, c. 582, is
4 amended to read:

6 **§4681. Violations of constitutional rights; civil action by**
7 **Attorney General**

8
9 Whenever any person, whether or not acting under color of
10 law, intentionally interferes by force or violence or the threat
11 of force or violence, intimidation-or-exercise or attempts to
12 intentionally interfere by force or violence or the threat,
13 intimidation-or-exercise, of force or violence with the exercise
14 or enjoyment by any other person of rights secured by the United
15 States Constitution or the laws of the United States or of rights
16 secured by the Constitution of Maine or laws of the State, the
17 Attorney General may bring a civil action for injunctive or other
18 appropriate equitable relief in order to protect the peaceable
19 exercise or enjoyment of the rights secured. The civil action
20 shall must be brought in the name of the State and shall-be
21 instituted in the Superior Court for the county where the alleged
22 violator resides or has a principal place of business.

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

30
31 Sec. 2. 5 MRSA §4681-A is enacted to read:

32
33 **§4681-A. Short title**

34
35 This chapter may be known and cited as the Maine Civil
36 Rights Act.

37
38
39 **STATEMENT OF FACT**

40
41 This bill addresses a potential problem resulting from the
42 Law Court's decision in Phelps v. President and Trustees of Colby
43 College, 595 A.2d 403 (Me. 1991). Under the court's decision,
44 the Maine civil rights law might be inapplicable to instances
45 when private actions by individuals forcibly interfere with the
46 exercise of rights of free expression or when private actions by
47 individuals physically harass individuals based on their race or
48 ethnic background.

2 This bill makes the Maine civil rights law apply to such
private actions. This bill is not intended to overturn the
4 result in the Colby College case nor is it intended to lead to
the wholesale imposition of constitutional requirements onto
6 private relationships. By limiting the reach of the law to
interference by force or violence or the threat of force or
8 violence, this bill provides a remedy against private parties
only if those parties resort to force or the threat of force.

10 The bill also formally supplies the title "Maine Civil
Rights Act" to the law.