

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 1069

S.P. 355

In Senate, March 29, 1993

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

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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 CONLEY of Cumberland.  
Cosponsored by Representative COTE of Auburn and  
Senators: HANDY of Androscoggin, LAWRENCE of York, McCORMICK of Kennebec,  
PARADIS of Aroostook, Representatives: ADAMS of Portland, BOWERS of Washington,  
BRENNAN of Portland, CARROLL of Gray, CATHCART of Orono, FAIRCLOTH of Bangor,  
FARNSWORTH of Hallowell, GEAN of Alfred, GWADOSKY of Fairfield, HEESCHEN of  
Wilton, HOLT of Bath, NADEAU of Saco, OTT of York, RICHARDSON of Portland, SAXL of  
Bangor, TOWNSEND of Portland.

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

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4       Sec. 1. 5 MRSA §4681, as amended by PL 1991, c. 821, §1, is further amended to read:

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

10       Whenever any person, whether or not acting under color of  
12       law, intentionally interferes or attempts to intentionally  
14       interfere by physical force or violence, damage or destruction of  
16       property or trespass on property or by the threat of physical  
18       force or violence or--attempts--to--intentionally--interfere--by  
20       physical--force--or--violence--or--the--threat--of--physical--force--or  
22       violence, damage or destruction of property or trespass on  
24       property with the exercise or enjoyment by any other person of  
26       rights secured by the United States Constitution or the laws of  
28       the United States or of rights secured by the Constitution of  
30       Maine or laws of the State, the Attorney General may bring a  
32       civil action for injunctive or other appropriate equitable relief  
34       in order to protect the peaceable exercise or enjoyment of the  
36       rights secured. Each violation of this section is a civil  
38       violation for which a civil penalty of not more than \$5,000 for  
40       each defendant may be adjudged. These penalties must be applied  
42       by the Attorney General in carrying out this chapter. The civil  
44       action must be brought in the name of the State and instituted in  
      the Superior Court for the county where the alleged violator  
      resides or has a principal place of business or where the alleged  
      violation occurred. A person who knowingly violates a temporary  
      restraining order or preliminary or permanent injunction issued  
      under this section commits a Class D crime except that, if bodily  
      injury results from the violation, that violation constitutes a  
      Class C crime. Each temporary restraining order or preliminary  
      or permanent injunction issued under this section must include a  
      statement describing the penalties provided in this section for a  
      knowing violation of the order or injunction. The clerk of the  
      Superior Court shall transmit one certified copy of each order or  
      injunction issued under this section to the appropriate law  
      enforcement agency having jurisdiction over locations where the  
      defendant is alleged to have committed the act giving rise to the  
      action, and that law enforcement agency shall serve the certified  
      copy of the order or injunction upon the defendant. Unless  
      otherwise ordered by the court, service must be made by the  
      delivery of a copy in hand to the defendant.

46       Sec. 2. 5 MRSA §4682, as repealed and replaced by PL 1991, c.  
48       821, §2, is amended to read:

**§4682. Violations of constitutional rights; civil actions by**

**aggrieved persons**

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Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence, damage or destruction of property or trespass on property or by the threat of physical force or violence ~~or attempts to intentionally interfere by physical force or violence or the threat of physical force or violence~~, damage or destruction of property or trespass on property 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 person whose exercise or enjoyment of these rights has been interfered with, or attempted to be interfered with, may institute and prosecute in that person's own name and on that person's own behalf a civil action for legal or equitable relief. A person who knowingly violates a temporary restraining order or preliminary or permanent injunction issued under this section commits a Class D crime except that, if bodily injury results from the violation, that violation constitutes a Class C crime. Each temporary restraining order or preliminary or permanent injunction issued under this section must include a statement describing the penalties provided in this section for a knowing violation of the order or injunction. The clerk of the Superior Court shall transmit one certified copy of each order or injunction issued under this section to the appropriate law enforcement agency having jurisdiction over locations where the defendant is alleged to have committed the act giving rise to the action, and that law enforcement agency shall serve the certified copy of the order or injunction upon the defendant. Unless otherwise ordered by the court, service must be made by the delivery of a copy in hand to the defendant.

**STATEMENT OF FACT**

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This bill makes 3 changes to the civil rights laws. First, the bill provides that intentional interference with secured rights through damage or destruction to, tampering with or trespassing on property violates the law. Second, the bill provides for civil penalties for violations of the Maine Revised Statutes, Title 5, section 4681. Third, the bill provides that a violation of an order or injunction issued under the law constitutes a crime.