

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 543

S.P. 200

In Senate, February 14, 1995

**An Act to Limit a Citizen's Right to Threaten the Use of Deadly Force  
against a Law Enforcement Officer Engaged in Carrying out Public Duty  
Except When Justified in Using Deadly Force.**

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Reported by Senator MILLS of Somerset for the Criminal Law Advisory Commission  
pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Criminal Justice suggested and ordered printed pursuant to  
Joint Rule 20.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

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

4 **Sec. 1. 17-A MRS §110** is enacted to read:

6 **§110. Threat to use deadly force against a law enforcement officer**

8 A person otherwise justified in threatening to use deadly  
10 force against another is not justified in doing so if the person  
12 knows or should know that the other person is a law enforcement  
14 officer, unless the person knows that the law enforcement officer  
16 is not in fact engaged in the performance of the law enforcement  
18 officer's public duty, or unless the person is justified under  
20 this chapter in using deadly force against the law enforcement  
22 officer.

18 **STATEMENT OF FACT**

20 This bill bars a private citizen, who otherwise would have  
22 the legal right to do so, from threatening the use of deadly  
24 force against a person the private citizen knows or should know  
26 is a law enforcement officer unless the private citizen knows  
28 that that law enforcement officer is not at that time engaged in  
30 the performance of the law enforcement officer's official duties  
32 or unless the private citizen is justified under the Maine  
34 Revised Statutes, Title 17-A, chapter 5 in actually using deadly  
36 force against that officer. Although broader in scope, this bill  
38 is nonetheless intended to overrule the result in State v.  
40 Clisham, 614 A.2d 1297 (Me. 1992) that allows a private citizen  
to threaten a law enforcement officer, acting under color of  
authority, with death or serious bodily injury under  
circumstances in which the private citizen is legally justified  
in using only nondeadly force. In State v. Clisham the Law Court  
equated threatening deadly force with the actual use of nondeadly  
force. Id. at 1298. See also State v. Lord, 617 A.2d 536 (Me.  
1992). This legal parallel drawn by the Law Court when a law  
enforcement officer is involved is rejected because of the  
substantial and unwarranted risk of death or serious bodily  
injury posed to the private citizen and law enforcement officer  
alike.