

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

---

Legislative Document

No. 781

---

H.P. 576

House of Representatives, March 9, 1995

### **An Act Protecting a Citizen's Right of Petition under the Constitution.**

---

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RICHARDSON of Portland.

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

Sec. 1. 14 MRSA §556 is enacted to read:

**§556. Special motion to dismiss**

When a moving party asserts that the civil claims, counterclaims or cross claims against the moving party are based on the moving party's exercise of the moving party's right of petition under the Constitution of the United States or the Constitution of Maine, the moving party may bring a special motion to dismiss. The court shall advance the special motion so that it may be heard and determined with as little delay as possible. The court shall grant the special motion, unless the party against whom the special motion is made shows that the moving party's exercise of its right of petition was devoid of any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleading and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

The Attorney General on the Attorney General's behalf or on behalf of any government agency or subdivision to which the moving party's acts were directed may intervene to defend or otherwise support the moving party on the special motion.

All discovery proceedings are stayed upon the filing of the special motion under this section, except that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery remains in effect until notice of entry of the order ruling on the special motion.

The special motion to dismiss may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms the court determines proper.

If the court grants a special motion to dismiss, the court shall award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters. This section does not affect or preclude the right of the moving party to any remedy otherwise authorized by law.

As used in this section, "a party's exercise of its right of petition" means any written or oral statement made before or submitted to a legislative, executive or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other

2 governmental proceeding; any statement reasonably likely to  
3 encourage consideration or review of an issue by a legislative,  
4 executive or judicial body, or any other governmental proceeding;  
5 any statement reasonably likely to enlist public participation in  
6 an effort to effect such consideration; or any other statement  
7 falling within constitutional protection of the right to petition  
8 government.

10 **Sec. 2. Application.** The provisions of this Act apply to all  
11 claims, counterclaims and cross claims that are not fully  
12 adjudicated on, or subsequent to, the effective date of this  
13 Act. A party may file a special motion to dismiss a claim,  
14 counterclaim or cross claim in existence on the effective date of  
15 this Act within 60 days of the effective date of this Act.

## 18 STATEMENT OF FACT

20 This bill allows a person exercising the first amendment  
21 right to bring an action and if a counterclaim is filed against  
22 that person for apparently dilatory expense incurring reasons or  
23 other frivolous reasons for seeking redress and accord, then that  
24 person has a right to a motion to dismiss and have that motion  
25 advanced so that the motion can be heard as soon as possible and  
26 if the motion to dismiss is granted, to have the case dismissed  
as soon as possible.