

MAINE STATE LEGISLATURE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 866, L.D. 1216, Bill, "An Act to Amend the Maine Civil Rights Act to Provide Greater Protections to Reproductive Facilities"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Maine Civil Rights Act'

Further amend the bill by striking out all of section 3 and inserting in its place the following:

'Sec. 3. 5 MRSA §4684-B is enacted to read:

§4684-B. Additional protections

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Building" means any structure having a roof or a partial roof supported by columns or walls that is used or intended to be used for shelter or enclosure of persons or objects regardless of the materials of which it is constructed.

B. "Health service" means any medical, surgical, laboratory, testing or counseling service relating to the human body.

C. "Physical obstruction" means rendering impassable ingress to or egress from a building or rendering passage to or from a building unreasonably difficult or hazardous.

2. Violation. It is a violation of this section for any person, whether or not acting under color of law, to intentionally interfere or attempt to intentionally interfere 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 by any of the following conduct:

A. Engaging in the physical obstruction of a building;

B. Making or causing repeated telephone calls to a person or a building, whether or not conversation ensues, with the intent to impede access to a person's or building's telephone lines or otherwise disrupt a person's or building's activities;

C. Activating a device or exposing a substance that releases noxious and offensive odors within a building; or

D. After having been ordered by a law enforcement officer to cease such noise, intentionally making noise that can be heard within a building and with the further intent either:

(1) To jeopardize the health of persons receiving health services within the building; or

(2) To interfere with the safe and effective delivery of those services within the building.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

This bill may increase prosecutions for Class D crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.22 per day for each offender. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

In addition to the criminal cases, this bill may increase the number of civil cases filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the

budgeted resources of the Judicial Department. The collection of additional filing fees and fines may also increase General Fund revenue by minor amounts.'

STATEMENT OF FACT

This amendment adds to the protections contained in the Maine Civil Rights Act. Specifically, the amendment prohibits persons from intentionally interfering with another person's exercise of a constitutionally or statutorily secured right, including the right to obtain reproductive health services, through the following conduct: physically obstructing entrance to or exit from a building; making repeated telephone calls to disrupt activities in a building; setting off a device that releases noxious substances or offensive odors; and making noise, after having been warned by a police officer to cease, that endangers persons receiving health services. The amendment broadens the original bill by making the added protections applicable in all contexts rather than only to civil rights violations at physicians' offices and health clinics that provide reproductive services.

Interference with the exercise of civil rights by making noise is a violation under the Maine Civil Rights Act when the following criteria are met:

1. The person making the noise has the intent to interfere or attempt to interfere with another person's rights;

2. The person is told by a law enforcement officer to stop making the noise;

3. The person has the intent that the noise be heard inside a building; and

4. The person has the intent to either:

A. Jeopardize the health of persons receiving health services within the building; or

B. Interfere with the safe and effective delivery of health services within the building.

This violation provision is narrowly drawn and includes specified intent requirements to avoid conflict with the First Amendment right to free speech.

It is the intent of the Legislature that in applying and interpreting the term "physical obstruction," Maine courts should be guided by decisions of federal courts in interpreting and

COMMITTEE AMENDMENT "A" to H.P. 866, L.D. 1216

applying the term "physical obstruction" as contained in the Federal Freedom of Access to Clinic Entrances Act of 1994, 18 United States Code, Section 248.

This amendment, as well as the current provisions of the Maine Revised Statutes, Title 5, sections 4681 and 4682, provides protections to any person who is subjected to one of the prohibited types of conduct with the intent to interfere with that person's exercise of a constitutionally or statutorily secured right, including the right to engage in speech secured by the First Amendment of the United States Constitution. The provisions of this amendment provide added protections to persons seeking reproductive health services and for persons providing those services. The current provisions of Title 5, section 4681 prohibit the use of violence, threat of violence, property damage and trespass with the intent of interfering with the provision or receipt of constitutionally secured reproductive health services.