

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1216

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H.P. 866

House of Representatives, April 5, 1995

**An Act to Amend the Maine Civil Rights Act to Provide Greater  
Protections to Reproductive Facilities.**

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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 "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TREAT of Gardiner.  
Cosponsored by Senator MILLS of Somerset.

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

4 **Sec. 1. 5 MRSA §4681**, as amended by PL 1993, c. 442, §1, is  
4 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 against a person, damage  
16 or destruction of property or trespass on property or by the  
18 threat of physical force or violence against a person, damage or  
20 destruction of property or trespass on property with the exercise  
22 or enjoyment by any other person of rights secured by the United  
24 States Constitution or the laws of the United States or of rights  
26 secured by the Constitution of Maine or laws of the State or  
28 violates section 4684-B, the Attorney General may bring a civil  
30 action for injunctive or other appropriate equitable relief in  
32 order to protect the peaceable exercise or enjoyment of the  
34 rights secured. Each violation of this section is a civil  
36 violation for which a civil penalty of not more than \$5,000 for  
38 each defendant may be adjudged. These penalties must be applied  
40 by the Attorney General in carrying out this chapter. The civil  
42 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. 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 service  
of the order or injunction must be accomplished pursuant to the  
Maine Rules of Civil Procedure. Unless otherwise ordered by the  
court, service must be made by the delivery of a copy in hand to  
the defendant.

44 **Sec. 2. 5 MRSA §4682**, as amended by PL 1993, c. 442, §2, is  
46 further amended to read:

48 **§4682. Violations of constitutional rights; civil actions by**  
aggravated persons

50 Whenever any person, whether or not acting under color of  
52 law, intentionally interferes or attempts to intentionally  
interfere by physical force or violence against a person, damage

2 or destruction of property or trespass on property or by the  
3 threat of physical force or violence against a person, damage or  
4 destruction of property or trespass on property with the exercise  
5 or enjoyment by any other person of rights secured by the United  
6 States Constitution or the laws of the United States or of rights  
7 secured by the Constitution of Maine or laws of the State or  
8 violates section 4684-B, the person whose exercise or enjoyment  
9 of these rights has been interfered with, or attempted to be  
10 interfered with, may institute and prosecute in that person's own  
11 name and on that person's own behalf a civil action for legal or  
12 equitable relief. A person who knowingly violates a temporary  
13 restraining order or preliminary or permanent injunction issued  
14 under this section commits a Class D crime. Each temporary  
15 restraining order or preliminary or permanent injunction issued  
16 under this section must include a statement describing the  
17 penalties provided in this section for a knowing violation of the  
18 order or injunction. The clerk of the Superior Court shall  
19 transmit one certified copy of each order or injunction issued  
20 under this section to the appropriate law enforcement agency  
21 having jurisdiction over locations where the defendant is alleged  
22 to have committed the act giving rise to the action, and service  
23 of the order or injunction must be accomplished pursuant to the  
24 Maine Rules of Civil Procedure. Unless otherwise ordered by the  
25 court, service must be made by the delivery of a copy in hand to  
26 the defendant.

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

28 **§4684-B. Facilities providing reproductive health services**

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

32 A. "Facility" includes a hospital, clinic, physician's  
33 office or other site that provides reproductive health  
34 services.

35 B. "Reproductive health service" means all medical,  
36 surgical, laboratory, testing, counseling or referral  
37 services relating to the human reproductive system,  
38 including services relating to pregnancy or the termination  
39 of pregnancy.

40 C. "Physical obstruction" means rendering impassable  
41 ingress to or egress from a facility or rendering passage to  
42 or from such a facility unreasonably difficult or hazardous.

43 2. Violation. It is a violation of this section for any  
44 person to:

45 A. Engage in the physical obstruction of a facility;

2 B. Make or cause repeated telephone calls to a facility,  
4 whether or not conversation ensues, with the intent to  
impede access to a facility's telephone lines or otherwise  
disrupt operation of a facility;

6 C. Activate a device or expose a substance that releases  
8 noxious and offensive odors within a facility; or

10 D. Intentionally make noise that can be heard within a  
12 facility and that jeopardizes the health of persons  
receiving reproductive health services within the facility  
14 or interferes with the safe and effective delivery of those  
16 services within the facility.

### 16 STATEMENT OF FACT

18 This bill adds to the protections already contained in the  
20 Maine Civil Rights Act for persons seeking services from  
22 reproductive health facilities and for persons providing services  
24 at those facilities. Specifically, the bill prohibits persons  
26 from physically obstructing ingress to or egress from a  
28 reproductive health facility; making repeated telephone calls to  
30 a facility; setting off a device releasing noxious odors; and  
intentionally making noise that jeopardizes the health of persons  
receiving reproductive health services. The current provisions  
of the Maine Revised Statutes, Title 5, sections 4681 and 4682  
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.