

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 104

H.P. 79

House of Representatives, January 9, 1997

An Act Concerning Threatening the Use of Deadly Force Against a Law Enforcement Officer Engaged in Carrying out Public Duty.

Reference to the Committee on Criminal Justice suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative CLUKEY of Houlton.
Cosponsored by Representatives: CROSS of Dover-Foxcroft, KNEELAND of Easton,
McALEVEY of Waterboro, PINKHAM of Lamoine, WATERHOUSE of Bridgton,
WHEELER of Bridgewater, Senators: BENOIT of Franklin, DAGGETT of Kennebec.

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

4 Sec. 1. 17-A MRSA §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 SUMMARY

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.