

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 143

H.P. 119

House of Representatives, January 14, 1997

An Act to Remove Immunity for Fraudulent Testimony or Perjury.

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 WATERHOUSE of Bridgton.
Cosponsored by Senator CAREY of Kennebec and
Representatives: AHEARNE of Madawaska, BUCK of Yarmouth, NASS of Acton, Senators:
BENOIT of Franklin, CASSIDY of Washington, KIEFFER of Aroostook.

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

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4 **Sec. 1. 14 MRSA §8111, sub-§1**, as amended by PL 1989, c. 502,
Pt. A, §40, is further amended to read:

6 **1. Immunity.** Notwithstanding any liability that may have
8 existed at common law, employees of governmental entities shall
be are absolutely immune from personal civil liability for the
following:

10 A. Undertaking or failing to undertake any legislative or
12 quasi-legislative act, including, but not limited to, the
adoption or failure to adopt any statute, charter,
14 ordinance, order, rule, policy, resolution or resolve;

16 B. Undertaking or failing to undertake any judicial or
quasi-judicial act, including, but not limited to, the
18 granting, granting with conditions, refusal to grant or
revocation of any license, permit, order or other
20 administrative approval or denial;

22 C. Performing or failing to perform any discretionary
function or duty, whether or not the discretion is abused,
24 and whether or not any statute, charter, ordinance, order,
resolution, rule or resolve under which the discretionary
26 function or duty is performed is valid;

28 D. Performing or failing to perform any prosecutorial
function involving civil, criminal or administrative
30 enforcement; or

32 E. Any intentional act or omission within the course and
scope of employment, ~~provided~~ except that such immunity
34 shall may not exist ~~in any case in which~~ when an employee's
actions are found to have been in bad faith.

36 The absolute immunity provided by paragraph C ~~shall be applicable~~
38 applies whenever a discretionary act is reasonably encompassed by
the duties of the governmental employee in question, regardless
40 of whether the exercise of discretion is specifically authorized
by statute, charter, ordinance, order, resolution, rule or
42 resolve, and ~~shall be~~ is available to all governmental employees,
including police officers and governmental employees involved in
44 child welfare cases, who are required to exercise judgment or
discretion in performing their official duties, except when a
46 police officer or governmental employee gives fraudulent
testimony in a child welfare case.

SUMMARY

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This bill removes the immunity from personal civil liability of a police officer or governmental employee who gives fraudulent testimony in a child welfare case.