MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1264

S.P. 427

In Senate, February 16, 1999

An Act to Ensure Freedom of Speech and Association on Campus.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator PENDLETON of Cumberland. Cosponsored by Representative MACK of Standish and

Senators: BENNETT of Oxford, AMERO of Cumberland, CATHCART of Penobscot,

Representative: BUCK of Yarmouth.

	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 20-A MRSA §10006 is enacted to read:
4	Propose Total Control of the Control
e	§10006. Protection of student speech and association rights
6	1 Definitions he used in this section unless the
0	1. Definitions. As used in this section, unless the
8	context otherwise indicates, the following terms have the following meanings.
10	tottowing meanings.
10	A. "Institution" means any postsecondary institution
12	incorporated or chartered under the laws of this State.
1.4	THE TOTAL OF CHAILES OF THE THE OF CHAP OF CHAP A CONTAIN
14	B. "Official sanction" means expulsion, suspension,
	probation, censure, condemnation, reprimand, coercion,
16	intimidation, harassment or any other actual or threatened
-	adverse action or sanction taken or threatened to be taken
18	by an institution. It includes oral or written warnings,
	threats or harassment made by any official of an institution
20	when that official is acting in an official capacity for an
	institution.
22	
	C. "Protected association" means the joining, assembling or
24	residing with others in activities that are protected or
	guaranteed under the United States Constitution, Amendments
26	I and XIV and under the Constitution of Maine.
28	D. "Protected speech" means speech that is protected or
	guaranteed under the United States Constitution, Amendments
30	I and XIV and under the Constitution of Maine.
32	2. Protection of rights. A student attending an
	institution on a full-time or part-time basis may not, on the
34	basis of participation in protected speech or protected
	association, be excluded from participation in, denied the
36	benefits of, subjected to harassment, discrimination or
	intimidation in or denied any rights officially or unofficially
38	sanctioned under any education program, activity, division or
	function of the institution, whether or not the education
40	program, activity, division or function is sponsored or
4.5	officially sanctioned by the institution.
42	3 Constantion Nothing to this continuous be seen to 2
4.4	3. Construction. Nothing in this section may be construed
44	to:
46	A Discourage or susuals the immediation of estimate
- ±∪	A. Discourage or prevent the imposition of official
48	sanction on a student who has willfully participated in the
40	disruption of a lecture, class, speech, presentation,
50	performance, activity or function made or officially scheduled to be made under the auspices of an institution; or
50	principated to be midde auder the dashines or an institution; of

B. Prevent an institution from taking reasonable, appropriate and effective action to prevent violations of liquor laws, discourage binge drinking, prevent alcohol abuse, protect students from sexual assault, protect students from date rape, protect students from sexual abuse, protect students from hazing or regulate unsanitary, unhealthy or unsafe conditions in dormitories or student residences on campus or in buildings or facilities owned, leased or in any way controlled by the institution.

4. Violations of protected rights. Violation of subsection 2 subjects an institution or an official acting in an official capacity for the institution, even if that official's action is outside the scope of that official's employment, to the commencement and prosecution of a civil action for legal or equitable relief by the person, in that person's name and on that person's own behalf, whose rights have been violated. In any civil action under this section, the court, in its discretion, may allow the plaintiff reasonable attorney's fees and costs.

SUMMARY

This bill ensures that postsecondary students' rights of speech and association will not be unconstitutionally abridged by postsecondary educational institutions incorporated or chartered by the State. The bill defines protected speech and association and describes impermissible institutional interference. It sets forth court action students may take when their rights are violated.