

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 703

H.P. 486

House of Representatives, February 24, 2009

An Act Regarding Claims for Civil Perjury

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CROCKETT of Bethel.
Cosponsored by Senator MILLS of Somerset and
Representatives: CLEARY of Houlton, DAVIS of Sangerville, JOHNSON of Greenville,
PRIEST of Brunswick, Senator: GOOLEY of Franklin.

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

2 Sec. 1. 14 MRSA §870 is repealed and the following enacted in its place:

3 **§870. Judgment by perjury; action on case**

4 **1. Action; within 3 years.** When a judgment has been obtained against a party by
5 the perjury of a witness introduced at the trial by the adverse party, the injured party may,
6 within 3 years after that judgment or after final disposition of any motion for relief from
7 the judgment, bring an action against such adverse party, or any perjured witness or
8 confederate in the perjury, to recover the damages sustained by the injured party by
9 reason of such perjury. The judgment in the former action does not bar an action under
10 this section.

11 **2. Specificity of claim.** A claim under this section must identify the specific
12 testimony alleged to be false at the initial filing of the claim.

13 **3. Record; evidence.** A claim may not be submitted under this section solely on the
14 same record as in the former trial. Evidence discoverable by due diligence before the trial
15 cannot be introduced as new evidence to establish perjury.

16 **4. Standard of proof.** The plaintiff in an action under this section must prove the
17 alleged perjury by clear and convincing evidence.

18 **5. Affirmative defense.** It is an affirmative defense to an action under this section
19 that the plaintiff has no new evidence to present concerning the alleged perjury.

20 **6. Strictly construed.** The pleading and proof requirements of this section must be
21 strictly construed.

22 **SUMMARY**

23 This bill codifies the holding in Bean v. Cummings, 2008 ME 18, concerning actions
24 for civil perjury.

25 This bill repeals and replaces the current law on civil perjury, retaining the substance
26 of the law while adding specific requirements for the civil perjury action.

27 This bill requires that the plaintiff include in the initial pleadings the specific
28 testimony in the former trial that the plaintiff claims is perjury. The claim may not be
29 submitted based solely on the record of the original trial. Evidence is not admissible if it
30 was discoverable by due diligence before the former trial. The plaintiff must prove the
31 alleged perjury by clear and convincing evidence. It is an affirmative defense that the
32 defendant may raise and prove that the plaintiff has no new evidence to present
33 concerning the alleged perjury. The pleading and proof requirements must be strictly
34 construed.