

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1258

H.P. 877

House of Representatives, March 31, 2009

An Act To Create a Duty To Report Serious Injuries

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McLEOD of Lee.
Cosponsored by Senator RAYE of Washington and
Representatives: BEAULIEU of Auburn, CRAY of Palmyra, CURTIS of Madison, GIFFORD
of Lincoln, JOY of Crystal, McFADDEN of Dennysville, SARTY of Denmark, TILTON of
Harrington.

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

2 **Sec. 1. 14 MRSA §222** is enacted to read:

3 **§222. Duty to report serious injury**

4 **1. Definition.** As used in this section, unless the context otherwise indicates,
5 "serious injury" means any untreated gunshot wound, knife wound or other open wound
6 that involves substantial blood loss.

7 **2. Duty.** A person who is 18 years of age or older and who observes that another
8 person has received a serious injury shall immediately report that injury and shall request
9 first aid by the quickest means of communication available from any police department,
10 emergency dispatch center, licensed medical facility or licensed medical provider.

11 A. This duty applies regardless of whether the injury was self-inflicted intentionally,
12 recklessly, negligently or accidentally.

13 B. This section may not be interpreted to impose a duty to provide first aid or other
14 medical treatment.

15 C. The duty imposed by this subsection is satisfied if another person has already
16 made or agreed to make the initial report and request for first aid.

17 **3. Cause of action.** A person who is injured by the failure of another person to
18 report a serious injury may bring a civil action against the person alleged to have
19 breached the duty imposed by subsection 2.

20 A. A person who brings a civil action pursuant to this subsection must prove by a
21 preponderance of the evidence the extent to which the alleged breach of the duty
22 imposed by subsection 2 was a substantial factor in causing an aggravation of the
23 person's injury.

24 B. The amount of damages awarded pursuant to this section may not be reduced as a
25 result of any intentional act or negligence committed by the injured person, as long as
26 the recoverable damages are limited to the aggravation of the injury proximately
27 caused by the failure to report the injury as required by subsection 2.

28 C. A person against whom a claim under this subsection has been asserted has an
29 affirmative defense that the person did not report the serious injury because that
30 person was in the process of providing first aid to the injured person.

31 **4. Application.** The civil cause of action created by subsection 3 must be applied to
32 any claim that is not otherwise barred by the existing statutes of limitations and,
33 notwithstanding Title 1, section 302, must be applied to any lawsuits pending as of the
34 effective date of this section in any court of competent jurisdiction.

35 **5. Violation.** A person may not intentionally, knowingly or recklessly fail to make a
36 report required by this section. A person who violates this subsection commits a Class E
37 crime.

