

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1738

H.P. 1235

House of Representatives, January 14, 2010

An Act To Establish a Duty To Report Serious Injuries

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary 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: BURNS of Whiting, CEBRA of Naples, EDGECOMB of Caribou, GIFFORD
of Lincoln, LEWIN of Eliot, SARTY of Denmark, SYKES of Harrison, TARDY of Newport.

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 to and shall
9 request first aid by the quickest means of communication available from a police
10 department, emergency dispatch center, licensed medical facility or licensed medical
11 provider.

12 **A.** The duty imposed by this subsection applies regardless of whether the injury was
13 self-inflicted intentionally, recklessly, negligently or accidentally.

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

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

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

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

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

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

32 **4. Application.** The civil cause of action created by subsection 3 must be applied to
33 a case that accrues on or after the effective date of this section.

34 **5. Governmental entities and employees.** This section does not apply to a
35 governmental entity or government employee acting in the course and scope of that
36 entity's or employee's duties.

SUMMARY

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This bill requires a person who observes that another person has received a serious injury to immediately report that injury to and request first aid by the quickest means of communication available from a police department, emergency dispatch center, licensed medical facility or licensed medical provider.