

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1081

S.P. 363

In Senate, March 19, 2013

An Act To Establish Legislative Standing in Judicial Proceedings

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CUSHING of Penobscot.
Cosponsored by Representative LOCKMAN of Amherst and
Senators: BURNS of Washington, KATZ of Kennebec, Representatives: DUNPHY of
Embden, FREDETTE of Newport, GUERIN of Glenburn, HARVELL of Farmington,
SANDERSON of Chelsea.

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

2 **Sec. 1. 3 MRSA c. 39** is enacted to read:

3 **CHAPTER 39**

4 **LEGISLATIVE STANDING**

5 **§1101. Legislative standing**

6 **1. Standing to intervene in judicial proceedings.** In any court proceeding in which
7 the constitutionality, legality or application of a law enacted by the Legislature is at issue,
8 25 or more Legislators who wish to defend the law may intervene as a party in the
9 proceeding and must be deemed by the court to have proper standing in the matter.

10 **2. Multiple groups.** If more than one group of Legislators wishes to intervene in a
11 proceeding under this section, the first group to file a request to intervene with the court
12 has an unconditional right to intervene, except as provided in subsection 3. The court
13 may impose conditions on a subsequent group that files a request to intervene.

14 **3. Absence of good faith.** A court may deny a request to intervene under this
15 section if the court determines that the group of Legislators filing a request to intervene
16 does not have a good faith intention to defend the constitutionality, legality or application
17 of a law enacted by the Legislature.

18 **4. Counsel.** A group of Legislators filing a request to intervene under this section
19 may request that the Attorney General represent them if the Attorney General is not
20 already representing a party to the proceeding and does not have another conflict of
21 interest. A group of Legislators filing a request to intervene under this section may
22 employ private counsel; however, state funds may not be used to cover the cost of
23 representation.

24 **SUMMARY**

25 This bill provides that a group of 25 or more Legislators acting in good faith have
26 standing to intervene in any court proceeding to defend a law enacted by the Legislature
27 if the constitutionality, legality or application of the law is at issue. The group of
28 Legislators may request that the Attorney General represent them in the proceeding or
29 may employ private counsel, but state funds may not be used to cover the cost of private
30 representation.