

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

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Legislative Document

No. 1259

H.P. 807

House of Representatives, March 21, 2023

**An Act to Recover Legal Fees for Low-income Individuals in
Actions or Proceedings**

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative SKOLD of Portland.
Cosponsored by Senator TIPPING of Penobscot and
Representatives: BRENNAN of Portland, CLOUTIER of Lewiston, DANA of the
Passamaquoddy Tribe, GRAMLICH of Old Orchard Beach, MOONEN of Portland, PERRY of
Calais, SHEEHAN of Biddeford, Speaker TALBOT ROSS of Portland.

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

2 **Sec. 1. 14 MRSA c. 315** is enacted to read:

3 **CHAPTER 315**

4 **LITIGATION COSTS**

5 **§1621. Short title**

6 This chapter may be known and cited as "the Equal Access to Justice Act."

7 **§1622. Definitions**

8 As used in this chapter, unless the context otherwise indicates, the following terms
9 have the following meanings.

10 **1. Covered individual.** "Covered individual" means:

11 A. An individual with a gross household income that does not exceed 400% of the
12 federal poverty level; or

13 B. An individual who is eligible for an assistance program for low-income households,
14 including, but not limited to, the Temporary Assistance for Needy Families program
15 under Title 22, chapter 1053-B; the Supplemental Nutrition Assistance Program under
16 Title 22, section 3104; the Women, Infants and Children Special Supplemental Food
17 Program of the United States Child Nutrition Act of 1966; the MaineCare program
18 under Title 22, chapter 855; the municipal general assistance program under Title 22,
19 chapter 1161; or child care subsidies under Title 22, chapter 1052-A.

20 **2. Federal poverty level.** "Federal poverty level" means the nonfarm income official
21 poverty line for a family of the size involved, as defined by the federal Office of
22 Management and Budget and revised annually in accordance with the United States
23 Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2.

24 **3. Institutional entity.** "Institutional entity" means any type of business or nonprofit
25 entity recognized under the laws of the State, including, but not limited to, a sole
26 proprietorship, corporation, limited liability company, association, general or limited
27 partnership, joint stock company, joint venture, mutual fund, bank, trust, real estate
28 investment trust or joint tenancy.

29 **4. Prevailing party.** "Prevailing party" means a party that obtains a monetary
30 recovery through judgment or settlement, a party that obtains a judgment or settlement
31 awarding the party any nonmonetary relief sought in the action or proceeding, a party that
32 achieves any relief sought in the action or proceeding because the action or proceeding
33 brings about a voluntary change in the other party's conduct or a defendant against which
34 no relief is recovered by the plaintiff.

35 **§1623. Costs and attorney's fees allowed**

36 In any action or proceeding between a covered individual and an institutional entity in
37 which a covered individual is the prevailing party, a court shall award only the covered
38 individual all recoverable costs described in section 1502-B and reasonable attorney's fees
39 incurred by the covered individual in connection with the action or proceeding. An award

1 under this section does not affect any remedy or other fees, costs or expenses otherwise
2 recoverable by the covered individual.

3 **§1624. Presumption; disclosure**

4 In any action or proceeding there is a rebuttable presumption that a party other than a
5 covered individual is an institutional entity, unless a court determines that the entity and its
6 owners have an average annual net income below \$100,000 after reviewing the party's tax
7 records for the prior 3 consecutive years.

8 **§1625. Financial statement required**

9 Each party shall exchange and file a financial statement for a court to determine
10 whether a party is a covered individual or an institutional entity. Each party shall file the
11 financial statement at the same time or before the filing of the party's first pleading.

12 **Sec. 2. Application.** This Act applies to any action or proceeding that is pending as
13 of the effective date of this Act.

14 **SUMMARY**

15 This bill allows, in connection with an action or proceeding, an individual who meets
16 certain income requirements to recover costs and attorney's fees from any type of business
17 or nonprofit entity recognized under the laws of the State if the individual is the prevailing
18 party.