

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1503

H.P. 958

House of Representatives, April 5, 2023

**An Act Regarding State Court Remedies for Violations of Legal or
Constitutional Rights by Federal Employees**

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative ANDREWS of Paris.
Cosponsored by Representatives: FAULKINGHAM of Winter Harbor, Speaker TALBOT
ROSS of Portland.

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

2 **Sec. 1. 14 MRSA §7** is enacted to read:

3 **§7. Actions against federal employees**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Employee" means an individual employed or contracted by, deputized by,
7 incorporated into a task force with or working in active cooperation with the Federal
8 Government.

9 B. "Federal Government" means the executive departments, independent
10 establishments and corporations acting as instrumentalities or agencies of the United
11 States and any contractor with the United States.

12 **2. State cause of action.** An employee who, under the color of any statute, ordinance,
13 regulation, custom or usage of the Federal Government, violates a right under the laws of
14 the State or the United States, the Constitution of Maine or the United States Constitution
15 is liable to the party injured in an action at law for money damages. The plaintiff bears the
16 burden of proving a violation of right under this subsection by a preponderance of the
17 evidence.

18 **3. Jurisdiction in state court.** An action under this section arises out of the laws of
19 the State. Jurisdiction of an action under this section is in the State's judicial system
20 pursuant to the State's laws and rules of civil procedure.

21 **4. Judicial process.** The court's order in an action under this section must be supported
22 by findings of fact and conclusions of law. The court shall make findings of fact in a bench
23 trial, and the jury shall make findings of fact in a jury trial. The court shall make conclusions
24 of law.

25 **5. Attorney's fees.** In any proceeding under this section in which a plaintiff's claim
26 prevails, the defendant is liable for reasonable attorney's fees and other litigation costs.
27 Reasonable attorney's fees under this subsection include fees incurred on an hourly or
28 contingency basis or by an attorney providing services on a pro bono basis. The court shall
29 recognize that a plaintiff's claim prevails if the plaintiff obtains any relief the plaintiff seeks
30 in its complaint, whether the relief is obtained via judgment, settlement or the defendant's
31 voluntary change in behavior. Under the Maine Rules of Civil Procedure, Rule 11, the court
32 may dismiss a frivolous claim and may award reasonable attorney's fees and litigation costs
33 to the defendant for defending against a frivolous claim.

34 **6. Public information.** All documents, including complaints, judgments, settlements
35 and consent decrees, related to an action under this section are subject to public disclosure.

36 **SUMMARY**

37 This bill allows a person to sue in state court an employee of the Federal Government
38 who violates a right of the person under the laws of the State or the United States, the
39 Constitution of Maine or the United States Constitution and requires attorney's fees and
40 court costs to be paid to the person if the person's claim prevails.