

MAINE STATE LEGISLATURE

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Date 6/1/23 Majority (Filing No H- 283) L D 1683

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H P 1082, L D 1683, "An Act to Provide for Civil Recovery Based on Nonconsensual Removal of or Tampering with a Condom and Considering Sexual Assault in Evaluating Parental Rights"

Amend the bill by striking out all of section 1 and inserting the following
'Sec. 1. 14 MRSA c. 750 is enacted to read

CHAPTER 750

CIVIL RECOVERY FOR NONCONSENSUAL REMOVAL OF OR TAMPERING WITH A CONDOM

§8305. Civil recovery for nonconsensual removal of or tampering with a condom

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

A "Compensatory damages" includes, but is not limited to, past and future medical expenses, lost earnings, pain, suffering, mental anguish, emotional distress and loss of enjoyment of life

B "Sexual act" has the same meaning as in Title 17-A, section 251, subsection 1, paragraph C

C "Tamper" means to alter or use an item in a way that renders the item ineffective

2. Civil action; relief. A person who engages in a consensual sexual act with another person with the understanding that a condom would be used during the sexual act may bring a civil action against the other person for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief based on the nonconsensual removal of or tampering with a condom if the other person

A Knowingly removes or tampers with the condom.

COMMITTEE AMENDMENT

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- B Knowingly uses a damaged condom, or
- C Misrepresents the person's intentions to use a condom
- A prevailing plaintiff is entitled to an award of attorney's fees and costs
- 3. Previous consent.** Evidence of consent to engage in a previous sexual act without a condom does not by itself demonstrate consent for engaging in a subsequent sexual act without a condom
- 4. No limitation.** The provisions of this chapter may not be construed to prohibit or limit any other cause of action that a person may have against another person who performs an action described by subsection 2'

Amend the bill in section 2 in subsection 6-D in the 4th line (page 2, line 10 in L D) by inserting after the following "or" the following 'as a result of'

Amend the bill in section 2 in subsection 6-D in the 5th line (page 2, line 11 in L D) by striking out the following "defined in Title 19-A, section 4102, subsection 7-A" and inserting the following 'described in Title 14, section 8305, subsection 2'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively

SUMMARY

This amendment, which is the majority report of the committee, clarifies that a plaintiff who prevails in a civil action based on nonconsensual removal of or tampering with a condom may be awarded actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief and is entitled to attorney's fees and court costs Under the amendment, evidence of consent to engage in a previous sexual act without a condom is not by itself sufficient to demonstrate consent to engage in a subsequent sexual act without a condom

The amendment also removes the provision of the bill providing a 20-year statute of limitations for the civil action of nonconsensual removal of or tampering with a condom Under the amendment, the default 6-year statute of limitations set forth in the Maine Revised Statutes, Title 14, section 752 applies to these actions

FISCAL NOTE REQUIRED
(See attached)



131st MAINE LEGISLATURE

LD 1683

LR 1115(02)

An Act to Provide for Civil Recovery Based on Nonconsensual Removal of or Tampering with a Condom and Considering Sexual Assault in Evaluating Parental Rights

Fiscal Note for Bill as Amended by Committee Amendment *A' (H-283)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time

The collection of additional filing fees will increase General Fund revenue by minor amounts