

130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document	No. 1338

H.P. 989

House of Representatives, March 30, 2021

An Act To Protect Employees' Exercise of Workplace Rights

Reference to the Committee on Labor and Housing suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative MILLETT of Cape Elizabeth. Cosponsored by Representatives: CUDDY of Winterport, GERE of Kennebunkport, PEBWORTH of Blue Hill, ROEDER of Bangor, Senator: MIRAMANT of Knox.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 26 MRSA §847, as enacted by PL 1987, c. 661, is repealed.
3	Sec. 2. 26 MRSA §848, as repealed and replaced by PL 2005, c. 228, §1, is repealed.
4	Sec. 3. 26 MRSA c. 7, sub-c. 13 is enacted to read:
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5	SUBCHAPTER 13
6	PROHIBITED ACTS AND JUDICIAL ENFORCEMENT
7	§880. Prohibited acts
8	Notwithstanding any provision of this chapter to the contrary, an employer may not:
9 10 11	1. Unlawful interference or denial of rights. Interfere with, restrain or deny the exercise of or the attempt to exercise any right provided by this chapter, including those listed in subsection 2;
12 13 14 15 16 17 18 19 20	2. Unlawful discrimination against exercise of rights. Discharge, fine, suspend, expel, discipline or in any other manner discriminate against an employee for exercising any right provided by this chapter. Such rights include but are not limited to the right to request to exercise any rights within this chapter; the right to file a complaint with the Department of Labor or courts or to inform any person about an employer's alleged violation of any part of this chapter; the right to participate in an investigation, hearing or proceeding or to cooperate with or assist the Department of Labor in its investigations of alleged violations of any part of this chapter; and the right to inform any person of the person's potential rights under this chapter; and
21 22 23	3. Unlawful discrimination against opposition. Discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for opposing any practice made unlawful by this chapter.
24	<u>§880-A. Judicial enforcement</u>
25 26 27 28 29	1. Injunction and damages. A civil action may be brought in the appropriate court by an employee against any employer to enforce this chapter. The court may enjoin any act or practice that violates or may violate this chapter and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce this chapter. The court may also:
30 31	A. Award damages equal to the wages, salary, employment benefits or other compensation denied or lost to the employee by reason of the violation; or
32 33	B. Order the employer to pay liquidated damages of \$100 to the employee for each day that the violation continued.
34 35 36	2. Additional damages. The court may also order the employer to pay an additional amount as liquidated damages equal to the amount awarded under subsection 1 if the employee proves to the satisfaction of the court that the employer's violation was willful.

3. Attorney's fees. In any action brought pursuant to this section, in addition to any
judgment awarded to the employee, the court shall award reasonable attorney's fees and
other costs of the action to be paid by the employer.

4 <u>4. Other penalties preserved.</u> Nothing in this section may be construed to prohibit
5 the imposition of penalties otherwise provided for in this chapter.

6 §880-B. Rules

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The Department of Labor shall adopt rules to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

10 Sec. 4. Inconsistencies; report. The Department of Labor shall review those parts of the Maine Revised Statutes governing prohibited acts and judicial enforcement under 11 12 the laws governing employment practices to develop legislation to correct any inconsistencies in law that result from this Act. By December 1, 2021, the Department of 13 Labor shall submit the proposed legislation developed pursuant to this section to the Joint 14 Standing Committee on Labor and Housing. The joint standing committee may report out 15 a bill relating to the proposed legislation to the Second Regular Session of the 130th 16 17 Legislature.

Sec. 5. Effective date. Those sections of this Act that repeal the Maine Revised
Statutes, Title 26, sections 847 and 848 and enact Title 26, chapter 7, subchapter 13 take
effect August 1, 2022.

SUMMARY

This bill repeals the sections of law concerning prohibited acts and judicial enforcement under the laws governing family medical leave employment practices in the Maine Revised Statutes, Title 26, chapter 7 and enacts similar provisions that apply to all laws in the same chapter governing employment practices.