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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 356, L.D. 537, “An Act to Prohibit the Doxing of a Minor and to Authorize a Related Civil Action”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 5 MRSA §4651, sub-§2, ¶C, as amended by PL 2017, c. 455, §1, is further amended to read:

C. A single act or course of conduct constituting a violation of section 4681; Title 14, section 9102; Title 17, section 2931; or Title 17-A, section 201, 202, 203, 204, 207, 208, 209, 210, 210-A, 211, 253, 254, 255-A, 256, 258, 259-A, 259-B, 260, 261, 282, 283, 301, 302, 303, 506, 506-A, 511, 511-A, 556, 802, 805, 806, 852 or 853.

Sec. 2. 14 MRSA c. 765 is enacted to read:

CHAPTER 765

DOXING OF MINOR PROHIBITED; CIVIL ACTION AUTHORIZED

§9101. Definitions

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

1. Close relation. "Close relation" means, with respect to a person, a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent or grandparent of that person; a person who regularly resides or within the prior 6 months resided in the same household as that person; a person with a significant personal or professional relationship with that person; or a pet of that person or of that person's household or family.

2. Compensatory damages. "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.

COMMITTEE AMENDMENT

1 **3. Disclosure.** "Disclosure" means the dissemination, distribution, circulation,
2 sharing, posting, publishing, transmittal or release of information through electronic or
3 other means.

4 **4. Doxing of a minor.** "Doxing of a minor" means the intentional, knowing or reckless
5 disclosure by a person of personal identifying information of a minor, when the person
6 making the disclosure consciously disregards a substantial risk that the disclosure will
7 cause, and in fact the disclosure either directly or indirectly causes:

8 A. A course of conduct directed at or concerning the minor that constitutes stalking
9 under Title 17-A, section 210-A;

10 B. Physical harm to the minor;

11 C. Serious damage to the property of the minor; or

12 D. The minor or a parent of the minor to reasonably fear for the minor's physical safety
13 or to reasonably fear for the physical safety of a close relation of the minor.

14 **5. Minor.** "Minor" means a person:

15 A. Who has not attained 18 years of age; or

16 B. Who is 18 years of age or older, meets the age requirement for enrollment under
17 Title 20-A, section 5201, subsection 1 and is currently enrolled in a public or private
18 secondary school in the State.

19 **6. Personal identifying information.** "Personal identifying information" means:

20 A. Any of the following information concerning a minor that the minor has not made
21 readily apparent to the general public:

22 (1) Biometric data;

23 (2) Home address, personal e-mail address or personal telephone number;

24 (3) Employer's name, address or telephone number; address of employer's website;
25 the minor's work e-mail address; or the minor's work telephone number;

26 (4) School name, address or telephone number; address of the school's website; or
27 the minor's school e-mail address;

28 (5) Social security number, passport number, driver's license number or state-
29 issued identification card number;

30 (6) Credit or debit card number;

31 (7) Medical, financial, educational, consumer or employment information or
32 records; or

33 (8) A photograph that was not taken in a public place and that has not previously
34 been made available to the general public; or

35 B. A photograph or likeness of a minor, including a photograph that was taken in a
36 public place or that has previously been made available to the general public, in
37 combination with:

38 (1) The minor's legal name, prior name, alias or date or place of birth;

39 (2) Information about the minor's relationship to a close relation; or

1 (3) Any item of information concerning the minor specified in paragraph A.

2 **§9102. Doxing of minor prohibited**

3 A person may not engage in conduct that constitutes doxing of a minor. A person that
4 violates this section may be subject to a civil action for damages pursuant to section 9103.

5 **§9103. Civil action for damages**

6 A minor may bring a civil action against a person who violates section 9102 for
7 injunctive relief, actual damages, compensatory damages, punitive damages, any
8 combination of those remedies or any other appropriate relief.

9 **1. Attorney's fees and costs.** A plaintiff who prevails in a civil action under this
10 section is entitled to an award of attorney's fees and costs.

11 **2. Defenses; consent.** It is a defense to a civil action brought pursuant to this section
12 that:

13 A. The minor consented to the person's disclosure of the minor's personal identifying
14 information unless, based on the circumstances known to the person at the time the
15 consent was given, including the minor's age, the minor's maturity and the nature of
16 the personal identifying information being disclosed, the person knew or consciously
17 disregarded a substantial risk that the minor did not knowingly consent to the
18 disclosure; or

19 B. At least one parent or guardian of the minor consented to the person's disclosure of
20 the minor's personal identifying information. This paragraph does not apply:

21 (1) If, when the disclosure was made, the person was aware that at least one other
22 parent or guardian of the minor objected to the disclosure; or

23 (2) If, upon receiving notice that the minor or at least one parent or guardian of the
24 minor objected to the disclosure, the person did not immediately take all necessary
25 steps to remediate the disclosure.

26 **3. Defenses; protected conduct.** It is a defense to a civil action brought pursuant to
27 this section that a person disclosed personal identifying information of a minor for the sole
28 purpose of:

29 A. Reporting conduct that was reasonably believed to be unlawful or to constitute a
30 crime to a law enforcement officer or law enforcement agency;

31 B. Publishing, disseminating or reporting conduct by a public official, law
32 enforcement officer or law enforcement agency that was reasonably believed to be
33 unlawful, to constitute a crime or to constitute an abuse of authority; or

34 C. Engaging in lawful activity protected by the United States Constitution or the
35 Constitution of Maine pertaining to speech, assembly, press or petition, including to
36 address a matter of public concern.

37 **4. Minors as parties.** A minor may be a party to an action under this chapter only
38 when the minor has a representative through whom the action is brought or defended
39 pursuant to the Maine Rules of Civil Procedure, Rule 17(b).'

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

SUMMARY

This amendment, which is the minority report of the committee, makes the following changes to the bill.

1. It clarifies that a person engages in doxing of a minor if the person intentionally, knowingly or recklessly discloses personal identifying information of the minor and consciously disregards a substantial risk that the disclosure will cause, and in fact the disclosure either directly or indirectly causes, certain types of harm to the minor, including stalking, physical harm, serious damage to the minor's property or that the minor or a parent of the minor reasonably fears for the minor's physical safety or the physical safety of a close relation.

2. It provides that a minor may obtain a protection from harassment order against a person who doxes the minor.

3. It expands the definition of "personal identifying information" of a minor, including by adding information about the minor's passport number.

4. It amends the definition of "personal identifying information" to provide that disclosing a photograph of a minor that was taken in a public place or that has previously been made publicly available does not constitute the disclosure of personal identifying information unless the photograph is accompanied by the minor's name, information identifying the minor's close relations or other personal identifying information of the minor.

5. It provides that a person is not liable for doxing of a minor if either the minor knowingly consents to the disclosure of the minor's personal identifying information or if at least one parent or guardian consents to the disclosure of the minor's personal identifying information and the person was not aware that either the minor or another parent or guardian of the minor objected to the disclosure.

6. It clarifies that a minor may be a plaintiff or a defendant in a civil action involving doxing of a minor only if the minor is represented as required by the Maine Rules of Civil Procedure, Rule 17(b).

7. It clarifies that compensatory damages awarded in a civil action against a person who doxes a minor may include past and future medical expenses, lost earnings, pain, suffering, mental anguish, emotional distress and loss of enjoyment of life.

8. It strikes the provision of the bill authorizing an award of treble damages.

9. It clarifies that a person is not liable in a civil action for doxing of the minor if the person's conduct was protected either by the United States Constitution or by the Constitution of Maine.

FISCAL NOTE REQUIRED

(See attached)