

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
S.P. 367 - L.D. 870

**An Act to Strengthen Freedom of Speech Protections by Enacting the
Uniform Public Expression Protection Act**

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

Sec. 1. 14 MRSA §556, as amended by PL 2023, c. 322, §1, is repealed.

Sec. 2. 14 MRSA c. 203, sub-c. 5 is enacted to read:

SUBCHAPTER 5

UNIFORM PUBLIC EXPRESSION PROTECTION ACT

§731. Short title

This subchapter may be known and cited as "the Uniform Public Expression Protection Act."

§732. Definitions

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

1. Governmental unit. "Governmental unit" means a public corporation or government or governmental subdivision, agency or instrumentality.

2. Person. "Person" means an individual, estate, trust, partnership, business or nonprofit entity, governmental unit or other legal entity.

§733. Applicability

1. Goods or services. For the purposes of this section, "goods or services" does not include the creation, dissemination, exhibition or advertisement or similar promotion of a dramatic, literary, musical, political, journalistic or artistic work.

2. Cause of action asserted. Except as otherwise provided in subsection 3, this subchapter applies to a cause of action asserted in a civil action against a person based on the person's:

A. Communication in a legislative, executive, judicial, administrative or other governmental proceeding;

B. Communication on an issue under consideration or review in a legislative, executive, judicial, administrative or other governmental proceeding;

C. Exercise of the right of freedom of speech or of the press, the right to assemble or petition or the right of association, guaranteed by the United States Constitution or by the Constitution of Maine, on a matter of public concern; or

D. Written or oral statement made in connection with a discrimination complaint pursuant to the Maine Human Rights Act or any written or oral statement made in connection with a complaint pursuant to Title 20-A, chapter 445 or the so-called Title IX provisions of the federal Education Amendments of 1972, Public Law 92-318.

3. Exceptions. This subchapter does not apply to a cause of action asserted:

A. Against a governmental unit or an employee or agent of a governmental unit acting or purporting to act in an official capacity;

B. By a governmental unit or an employee or agent of a governmental unit acting in an official capacity to enforce a law to protect against an imminent threat to public health or safety; or

C. Against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services.

§734. Special motion for expedited relief

Not later than 60 days after a party is served with a complaint, petition, cross-claim, counterclaim, 3rd-party claim or other pleading that asserts a cause of action to which this subchapter applies, or at a later time on a showing of good cause, the party may file a special motion for expedited relief to dismiss the cause of action or part of the cause of action.

§735. Stay

1. Stay proceedings. Except as otherwise provided in subsections 4 to 7, on the filing of a motion under section 734:

A. All other proceedings between the moving party and responding party, including discovery and a pending hearing or motion, are stayed; and

B. On motion by the moving party, the court may stay a hearing or motion involving another party, or discovery by another party, if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material to the motion under section 734.

2. Length of stay. A stay under subsection 1 remains in effect until entry of an order ruling on the motion under section 734 and expiration of the time under the Maine Rules of Appellate Procedure for the moving party to appeal the order.

3. Stay on appeal. Except as otherwise provided in subsections 5, 6 and 7, if a party appeals from an order ruling on a motion under section 734, all proceedings between all parties in the action are stayed. The stay remains in effect until the conclusion of the appeal.

4. Limited discovery. During a stay under subsection 1, the court may allow limited discovery if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under section 738, subsection 1 and the information is not reasonably available unless discovery is allowed.

5. Motion for costs, attorney's fees and expenses. A motion under section 740 for costs, attorney's fees and expenses is not subject to a stay under this section.

6. Dismissal. A stay granted under this section does not affect a party's ability voluntarily to dismiss a cause of action or part of a cause of action or move to sever a cause of action.

7. Other motions. During a stay under this section, the court for good cause may hear and rule on:

A. A motion unrelated to the motion under section 734; and

B. A motion seeking a special or preliminary injunction to protect against an imminent threat to public health or safety.

§736. Judicial priority

An action under this subchapter may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

§737. Proof

In ruling on a motion under section 734, the court shall consider the pleadings, the motion, any reply or response to the motion and any evidence that could be considered in ruling on a motion for summary judgment under Rule 56 of the Maine Rules of Civil Procedure.

§738. Dismissal of cause of action in whole or in part

1. Dismissal with prejudice. In ruling on a motion under section 734, the court shall dismiss with prejudice a cause of action, or part of a cause of action, if:

A. The moving party establishes under section 733, subsection 2 that this Act applies;

B. The responding party fails to establish under section 733, subsection 3 that this Act does not apply; and

C. Either:

(1) The responding party fails to establish a prima facie case as to each essential element of the cause of action; or

(2) The moving party establishes that:

(a) The responding party failed to state a cause of action upon which relief can be granted; or

(b) There is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the cause of action or part of the cause of action.

2. Dismissal without prejudice; right to costs, attorney's fees and expenses. A voluntary dismissal without prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under section 734 does not affect a moving

party's right to obtain a ruling on the motion and seek costs, attorney's fees and expenses under section 740.

3. Dismissal with prejudice; prevailed on motion. A voluntary dismissal with prejudice of a responding party's cause of action, or part of a cause of action, that is the subject of a motion under section 734 establishes for the purpose of section 740 that the moving party prevailed on the motion.

§739. Appeal

A moving party may appeal as a matter of right from an order denying, in whole or in part, a motion under section 734. An appeal of a judgment or order under this subchapter is governed by the Maine Rules of Appellate Procedure.

§740. Costs, attorney's fees and expenses

On a motion under section 734, the court shall award court costs, attorney's fees and reasonable litigation expenses related to the motion:

1. If moving party prevails. To the moving party if the moving party prevails on the motion; or

2. If responding party prevails. To the responding party if the responding party prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.

§741. Construction

This subchapter must be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition and the right of association guaranteed by the United States Constitution or by the Constitution of Maine.

§742. Uniformity of application and construction

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 3. Application. This Act applies to a civil action filed or cause of action asserted in a civil action on or after January 1, 2025.

Sec. 4. Savings clause. This Act does not affect a cause of action asserted before January 1, 2025 in a civil action or a motion under the Maine Revised Statutes, Title 14, former section 556 regarding the cause of action.

Sec. 5. Legislative intent. This Act is the Maine enactment of the Uniform Public Expression Protection Act as revised by the National Conference of Commissioners on Uniform State Laws. The text of the uniform act has been changed to conform to the Maine statutory conventions. The changes are technical in nature and it is the intent of the Legislature that this Act be interpreted as substantively the same as the uniform act.

Sec. 6. Comments. The Legislature accepts the Uniform Comments composed by the National Conference of Commissioners on Uniform State Laws as part of the Uniform Public Expression Protection Act.

Sec. 7. Effective date. This Act takes effect January 1, 2025.