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# JUDICIARY

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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.

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 or a close relation of the  
9 minor that constitutes stalking under Title 17-A, section 210-A;

10       B. Physical harm to the minor or a close relation of the minor;

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

12       D. The minor or a close relation of the minor to reasonably fear for the minor's physical  
13 safety 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 and has not authorized another person to make 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) Citizenship status;

32               (8) Medical, financial, educational, consumer or employment information or  
33 records; or

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

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

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

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

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

**§9102. Doxing of minor prohibited**

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

**§9103. Civil action for damages**

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

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

**2. Punitive damages.** A plaintiff who proves by clear and convincing evidence that the doxing of a minor was committed with malice or motivated by the race, color, religion, ethnicity, national origin, citizenship status, sex, gender, sexual orientation, gender identity or expression, physical or mental health condition or disability of the minor or of a close relation of the minor is entitled to an award of punitive damages in addition to any other remedy.

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

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

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

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

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

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, 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 or a close relation of the minor, including stalking, physical harm, serious damage to the minor's or a

1 close relation's property or that the minor or a close relation of the minor reasonably fears  
2 for the minor's physical safety or the physical safety of a close relation.

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

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

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

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

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

19 7. It strikes the provision of the bill authorizing an award of treble damages and instead  
20 provides that a plaintiff who demonstrates by clear and convincing evidence that the doxing  
21 of a minor was motivated by the race, color, religion, ethnicity, national origin, citizenship  
22 status, sex, gender, sexual orientation, gender identity or expression, physical or mental  
23 health condition or disability of the minor or of a close relation is entitled to an award of  
24 punitive damages.

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

28 **FISCAL NOTE REQUIRED**

29 **(See attached)**