

April 13, 2025

Dear Honorable Members of the Maine Senate Judiciary Committee,

I urge you to support LD 385, a vital bill that protects survivors who speak out about sexual abuse. Abusers are increasingly weaponizing defamation lawsuits—frivolous, retaliatory cases meant not to win, but to intimidate and financially drain survivors through costly, drawn-out litigation. These suits clog the courts and exploit gaps in Maine’s current anti-SLAPP law, the Uniform Public Expression Protection Act. LD 385 strengthens that law and ensures survivors can speak freely without fear of retaliation.

My name is Victoria Burke. I originally proposed this bill, modeled after California’s AB 933—a law I helped draft and which was signed in 2023. Since then, I’ve worked to bring this protection nationwide. As of the 2025 session, 16 states—including Maine—have introduced similar bills: CT, GA, HI, IA, IL, KS, MA, MD, ME, NH, NJ, NY, OR, PA, RI, and VT.

In brief: LD 385 protects free speech, deters abuse of the legal system, and empowers survivors.

**Maine’s Current UNIFORM PUBLIC EXPRESSION PROTECTION ACT Is Deficient:**

1. The law is too narrow as to setting; only applying to statements that were made in a “legislative, executive, judicial, administrative, or other government proceeding”. [Most statements made by sexual assault victims are to other people or on social media, as most memorably demonstrated by the those using the hashtag during the #MeToo Movement]
2. The language excludes protection for victims of sexual assault, sexual harassment, and sexual discrimination; Current language only protects “a matter of *public concern*.” However, sexual assault is often construed legally as a *private issue* and not a public concern in the eyes of the law. How broadly a court allows this interpretation leads to inconsistent justice and results.

**Why Maine’s LD 385 is necessary:**

1. The bill language explicitly states protection is for those speaking out about **sexual assault, sexual harassment, and sexual discrimination** (this bill states it in plain language).
2. This proposed bill is broad enough to cover statements made in any forum, such as in the circumstances of the #MeToo movement.
3. Sexual assault survivors need a bill that explicitly protects their First Amendment right to speak out with clear and concise language.
4. This bill still allows access to courts for those falsely accused who can show the statements were made with malice.

This legislation has been vetted by the ACLU of Maine to ensure it strikes the right balance—protecting survivors’ First Amendment rights to speak out, while preserving access to the courts for those falsely accused. The bill does not prevent anyone from filing a defamation claim, as long as the statement was made with *malice*. What it does is create a disincentive for meritless lawsuits designed to intimidate and silence victims. Survivors should not bear the burden of protecting an abuser’s reputation while trying to heal from trauma.

**My Story**

My inspiration to draft the bill was sparked by my own story as a survivor. In December 2019, I went to dinner with a male friend whom I believe drugged my drink. One minute I am in the restaurant and the next minute I am waking up to bright light in the emergency room, coming out of a severe coma. I had been found by paramedics unresponsive in a parking lot, lying in a pool of my own vomit, with my top undone. I went to the police shortly after I was released from the hospital, expecting an arrest to be made. Unfortunately, the police lost both my blood evidence and the video evidence, meaning that an arrest is all but impossible. The only thing I had left that resembled justice was to be able to tell people what had happened to me. Or so I thought.

When I told a friend what had happened to me, she warned me not to name my abuser or include any identifying details— that I could be sued for defamation. This warning shocked me, especially since she was a defamation

attorney. I had always believed the law protected you so long as your statements were true or clearly opinion. I felt safe speaking out because either he had drugged my drink, or it was my opinion that he had. The blood evidence was lost, meaning he could not be ruled out as having drugged me. But my friend explained that, in the wake of #MeToo, a wave of retaliatory lawsuits had emerged to silence victims.

These weaponized lawsuits are having a chilling effect on survivors coming forward. Survivors now face an impossible choice: speak up and risk being sued; or stay silent and let abuse go unchallenged. A common theme is an imbalance of power and money between those who file these lawsuits and the survivor defendant. (For example, Bill Cosby had filed defamation lawsuits against several of his victims.) But when predators are exposed, communities become safer. The man I believe drugged me later sexually harassed two women and was ultimately banned from a shared space after their complaints. Predators rarely stop at one victim—silence allows them to continue.

Please act now to support LD 385. This bill creates a safer path for survivors to speak out, without fear of being dragged through years of punitive litigation. It offers a vital balance between free expression and fairness—and sends a clear message that Maine stands with survivors and for justice.

Thank you for your consideration of this very important bill.

Respectfully yours,  
Victoria Burke  
(Attorney, Adjunct Law Professor, Survivor)