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Testimony
In Support of

LD 1222 An Act to Limit Sovereign Immunity for Schools and School Superintendents

Senator Carney, Representative Kuhn and the Members of the Judiciary Committee, Thank you for allowing me the opportunity to present my bill LD 1222 – “*An Act to Limit Sovereign Immunity for Schools and School Superintendents*.” I bring this bill forward not out of opposition to our schools—but out of deep concern for our children and the families who may have been harmed when the very systems charged with protecting them have failed to act.

Why This Legislation Is Necessary

This bill addresses one of the most urgent and under-discussed problems facing families in Maine: the inability to hold schools and superintendents accountable when gross negligence or failure to act results in harm to a student. In Maine, the principle of sovereign immunity has long shielded government entities and officials, including school administrators and superintendents, from legal accountability in certain cases. However, this protection undermines the pursuit of justice and accountability in cases of misconduct, negligence, and abuse within educational institutions.

Currently, Maine’s sovereign immunity laws create a near-impenetrable barrier between victims and justice when misconduct or negligence occurs within a school system. Even in instances where school officials had prior knowledge of abusive behavior—whether physical, sexual, or psychological—families are often left without a viable legal pathway to hold those decision-makers accountable.

LD 1222 creates a limited and reasonable exception to sovereign immunity for schools and superintendents when it can be shown that:

- There was a failure to act on credible allegations of misconduct, or
- Harm occurred due to gross negligence or willful indifference to student safety.

District 37 Frankfort, Prospect, Searsport, Stockton Springs, Winterport

This is not a radical bill. It does not remove protections for schools acting in good faith. It does not open the door to endless litigation. Rather, it simply provides families with a path to justice when the system fails their children in the most preventable and painful ways.

The National Context – We’re Not Immune

While this bill is Maine-specific, the need for this reform is underscored by national trends. In 2023, a Public Information Request in Texas revealed that the Texas Education Agency had received 6,885 complaints of educator sexual misconduct over just a three-year span—none of which were adequately investigated or resolved.

That number should alarm every one of us—not just because of its scale, but because it was uncovered only through public records pressure. And here in Maine, we don’t even have that option. The public has virtually no access to misconduct complaint data, no public registry or database, and little to no recourse even when credible allegations exist. This leaves parents in the dark, and schools operating without transparency or external accountability.

We cannot improve what we refuse to acknowledge. And right now, Maine families are being asked to place their trust in systems that are protected from consequence—even when they fail.

The Human Cost -Predators Don’t Stop at One Victim

It’s important to understand what is at stake when early warnings go unheeded. According to the Abel and Harlow Child Molestation Prevention Study, the average child molester has 117 victims before being caught. This statistic is devastating—and it clarifies the stakes of inaction. Every time a credible report is brushed aside, every time a school fails to investigate, and every time leadership chooses silence over intervention, more children are put at risk.

We cannot allow administrative fear, institutional protectionism, or legal shielding to silence children or protect predators. When the system prioritizes liability protection over child safety, we’ve lost our moral compass.

The Broader Safety Landscape

This bill does not only cover cases of sexual abuse—it applies to all forms of harm where gross negligence is involved. Across our country:

- 77% of public schools reported at least one crime incident in 2019–2020.
- 70% of schools reported at least one violent incident.
- 25% reported a serious violent incident.
- Only 32% of schools reported those incidents to law enforcement.
- 20% of students report being bullied on school property, and 15% report being cyberbullied.

These are not abstract statistics—they are snapshots of a broader cultural failure to address harm when it occurs within our schools. And yet, Maine families cannot even obtain documentation of these incidents, let alone pursue justice if a school district chooses not to act.

What LD 1222 does:

- Creates a clear and limited exception to sovereign immunity where gross negligence is involved.
- Ensures families have a legal pathway to pursue justice when administrators fail to respond to abuse, harassment, or violence.
- Encourages schools and superintendents to adopt proactive, preventative policies that prioritize student safety.
- Sends a clear message that child safety will always take precedence over institutional liability.

Why This Is Not Anti-School—It's Pro-Child

Let me be very clear: This bill is not an indictment of our teachers, administrators, or public schools. It is a call to strengthen the integrity of those institutions by holding them to a higher standard of care and responsibility. School administrators and superintendents hold significant authority over the safety, well-being, and education of students. With such power comes an obligation to uphold the highest standards of care and integrity. Sovereign immunity, as it currently stands, creates a dangerous precedent where administrators and superintendents can act without fear of personal liability, even when their actions—or lack thereof—result in significant harm to students.

We entrust our children to our public schools every single day. With that trust comes the expectation that when danger presents itself—whether in the form of abuse, threats, violence, or manipulation—school leadership will act swiftly and decisively. When they don't, there must be consequences. Because without accountability, there is no justice. And without justice, there is no healing.

Let Maine Lead

Other states are beginning to confront this problem—but Maine has the opportunity to lead. We can be the state that says, “We will not shield silence. We will not prioritize institutions over innocence. And we will not tolerate systems that allow abuse to continue unchecked.” By limiting sovereign immunity in cases involving school administrators and superintendents, we encourage more responsible decision-making and ensure that public school officials are held accountable for their actions. This is not only a matter of justice but also a step toward creating a safer, more transparent, and more accountable education system.

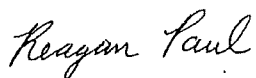
In Maine, sovereign immunity under the Maine Tort Claims Act (MTCA) has repeatedly shielded schools and their employees from liability in cases where private citizens would likely face civil negligence claims for similar discretionary actions. For instance, in *Lightfoot v. School Administrative District No. 35* (2003), a teacher's negligent supervision of a climbing wall activity during a PE class led to a student's injury, but the court upheld immunity, deeming supervision a discretionary function absent gross negligence—protection a private gym owner would not receive under standard tort law. Similarly, in *Roberts v. Town of Windham* (1998), a

school bus driver escaped liability after a child was injured exiting into traffic, as the court classified student supervision as discretionary, unlike a private driver who could be sued for ordinary negligence. In *Jackson v. Regional School Unit 26* (2016), teachers avoided accountability for failing to prevent a student assault despite prior knowledge of the aggressor's behavior, shielded by discretionary immunity, while a private daycare worker, as in *State v. Cote* (2010), faced charges for comparable supervisory lapses. Cases like *Doe v. RSU 21* (2017) and *Carey v. RSU 1* (2012) further illustrate this pattern, protecting educators from liability for negligent handling of bullying or field trip oversight—actions that, for private citizens like camp counselors or event organizers, would likely result in civil lawsuits without an immunity shield. These examples highlight a stark disparity: MTCA immunity safeguards educators for judgment-based decisions, even when flawed, while private individuals face full accountability under ordinary negligence standards.

The superintendents who have submitted testimony on this bill help demonstrate its necessity. One administrator stated that if a school leader were found guilty of negligence or willful misconduct, they would "*likely*" be fired and "*possibly*" face charges. The words "*likely*" and "*possibly*" leave room for doubt—meaning consequences are not guaranteed. Another superintendent used similar language, saying she would "*likely*" have her contract terminated, "*likely*" lose her professional certificate, and "*possibly*" face charges. But *likely* and *possibly* aren't good enough. What about the victims? Accountability should not be a matter of chance—it should be a certainty.

In conclusion, for the children already harmed—and for the ones we can still protect—I respectfully urge you to support LD 1222 and send a clear message that Maine is willing to lead with courage, clarity, and compassion. Students deserve to know that their safety and well-being are prioritized, and administrators must be held to account when they fail in that duty.

Thank you for your time and consideration.



Reagan Paul
State Representative