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Legislative Document

No. 1416

S.P. 466

In Senate, April 12, 2021

**An Act To Limit Qualified Immunity of Law Enforcement Officers
in Maine Civil Rights Act Claims**

Received by the Secretary of the Senate on April 8, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CARNEY of Cumberland.
Cosponsored by Representative MORALES of South Portland.

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

2 **Sec. 1. 5 MRSA §4686** is enacted to read:

3 **§4686. Immunity not available**

4 **1. Immunity not available.** A defendant in an action brought under section 4682 may
5 not claim as a defense or immunity to the action that the defendant did not violate a clearly
6 established statutory or constitutional right of which a reasonable person would have
7 known if:

8 A. The violation involved the person's using or threatening to use physical force or
9 violence against a person;

10 B. At the time of the violation, the person was a law enforcement officer subject to the
11 training requirements of Title 25, section 2804-B, 2804-C or 2804-E; and

12 C. At the time of the violation, the person was employed by a law enforcement agency
13 subject to the requirements of Title 25, section 2803-B.

14 **2. Limitation of personal liability.** Personal liability of a person under subsection 1
15 may not exceed \$10,000 per violation of section 4682, subsection 1-A.

16 **SUMMARY**

17 This bill removes the qualified immunity conferred pursuant to the United States
18 Supreme Court decision in *Pierson v. Ray*, 386 U.S. 547 (1967), for a government official
19 for the official's alleged act when it was not clear upon committing the act that the act was
20 a clear violation of an established statutory or constitutional right under the Maine Civil
21 Rights Act if:

22 1. At the time of the alleged violation, the government official was a law enforcement
23 officer who allegedly used or threatened to use force or physical violence against the
24 aggrieved person;

25 2. The law enforcement officer was required to receive either preservice law
26 enforcement training, basic law enforcement training or in-service law enforcement
27 training; and

28 3. The law enforcement agency employing the law enforcement officer was subject to
29 the requirement to have policies concerning the use of physical force.

30 The bill also limits liability in these cases to \$10,000 per violation.