

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act Regarding Claims for Civil Perjury**

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

**Sec. 1. 14 MRSA §870** is repealed and the following enacted in its place:

### **§ 870. Judgment by perjury; action on case**

**1. Action; within 3 years.** When a judgment has been obtained against a party by the perjury of a witness introduced at the trial by the adverse party, the injured party may, within 3 years after that judgment or after final disposition of any motion for relief from the judgment, bring an action against such adverse party, or any perjured witness or confederate in the perjury, to recover the damages sustained by the injured party by reason of such perjury. The judgment in the former action does not bar an action under this section.

**2. Specificity of claim.** A claim under this section must identify the specific testimony alleged to be false at the initial filing of the claim.

**3. Record; evidence.** A claim may not be submitted under this section solely on the same record as in the former trial. Evidence discoverable by due diligence before the trial cannot be introduced as new evidence to establish perjury.

**4. Standard of proof.** The plaintiff in an action under this section must prove the alleged perjury by clear and convincing evidence.

**5. Affirmative defense.** It is an affirmative defense to an action under this section that the plaintiff has no new evidence to present concerning the alleged perjury.

**6. Strictly construed.** The pleading and proof requirements of this section must be strictly construed.

## **SUMMARY**

This bill codifies the holding in *Bean v. Cummings*, 2008 ME 18, concerning actions for civil perjury.

This bill repeals and replaces the current law on civil perjury, retaining the substance of the law while adding specific requirements for the civil perjury action.

This bill requires that the plaintiff include in the initial pleadings the specific testimony in the former trial that the plaintiff claims is perjury. The claim may not be submitted based solely on the record of the original trial. Evidence is not admissible if it was discoverable by due diligence before the former trial. The plaintiff must prove the alleged perjury by clear and convincing evidence. It is an affirmative defense

that the defendant may raise and prove that the plaintiff has no new evidence to present concerning the alleged perjury. The pleading and proof requirements must be strictly construed.