

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 660 - L.D. 886

An Act To Protect Search and Rescue Volunteers Certified by the Maine Association for Search and Rescue from Adverse Employment Actions

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

Sec. 1. 26 MRSA c. 7, sub-c. 4-D is enacted to read:

SUBCHAPTER 4-D

SEARCH AND RESCUE VOLUNTEERS; ABSENCE FROM WORK

§810. Absence for emergency response

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Employer" means any private or public employer, including the State and political subdivisions of the State.
- B. "Recognized organization" means a nonprofit search and rescue organization recognized by the Department of Inland Fisheries and Wildlife, Bureau of Warden Service.
- C. "Search and rescue" means a search, rescue or search and rescue.
- D. "Search and rescue volunteer" means a person who is certified in search and rescue practices and procedures by a recognized organization.

2. Prohibition against discharge or disciplinary action. An employer may not discharge or take any other disciplinary action against or otherwise discriminate against an employee because of the employee's failure to report for work at the beginning of the employee's regular working hours or the employee's absence during the employee's regular working hours if the employee's failure to report or absence was because the employee was responding to a search and rescue operation requested by a law enforcement agency in the employee's capacity as a search and rescue volunteer and the employee reported for work as soon as reasonably possible after being released from the

search and rescue operation. An employer may charge the lost time against the employee's regular pay or against the employee's available leave time. This subsection does not apply to the absence of an employee if the employee has been designated as essential by the employer pursuant to subsection 6.

3. Notification; verification. An employee responding as a search and rescue volunteer to a search and rescue operation, the employee's designee or the search and rescue operation supervisor shall make every effort to immediately notify the employer that the employee may be late arriving to work or absent from work as a result of responding to a search and rescue operation requested by a law enforcement agency prior to or during the employee's regular working hours. At the request of an employer, an employee losing work time as provided in subsection 2 shall provide the employer with a statement from the official in charge of the recognized organization, the official's designee or a law enforcement official responsible for the search and rescue operation verifying that the employee was responding to a search and rescue operation and specifying the date and time of release from the operation.

4. Enforcement; penalty for violation. If an employer has violated subsection 2, the employee may bring an action in Superior Court in the county in which the employee resides or in the county in which the employer's place of business is located. The action must be brought within one year of the date of the alleged violation. If the court finds that the employer violated subsection 2 and if the employee so requests, the court shall order the employer to reinstate the employee in the employee's former position without reduction of pay, seniority or other benefits. The court also shall order any other appropriate remedy necessary to return the employee to the position the employee would have been in had the employer not violated subsection 2, including payment of back pay and reinstatement of any other benefits lost during the period in which the discharge or disciplinary action was in effect.

5. Individual agreements. This section does not apply if the employer and the employee have entered into a written agreement, signed by the employer and the employee, that governs procedures to be followed when the employee is called to respond to a search and rescue operation as a search and rescue volunteer.

6. Designation as essential. Upon receiving notice of an employee's search and rescue volunteer status, an employer may designate the employee essential to the employer's operations if the absence of the employee would cause significant disruption of the employer's business. This designation must be made in writing and signed by both the employee and the employer.

7. Information to be filed by the employee with the employer. This section applies only if:

A. The recognized organization in charge of calling out search and rescue volunteers has a written policy that:

(1) Specifies the circumstances under which search and rescue volunteers will be ordered to remain at a search and rescue operation; and

(2) Affirms that search and rescue volunteers will be released as soon as practicable; and

B. The employee presents a copy of the policy described in paragraph A to the employer upon notifying the employer of the employee's status as a search and rescue volunteer, within 30 days of employment or within 180 days of the effective date of this subsection.

An employee shall notify the employer of any change to the employee's status as a search and rescue volunteer, including termination of that status within 30 days of the change.