

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-1167)
108TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to H.P. 2173, L.D. 2174, RESOLVE,
Authorizing Beverly Mortimer and Dennis Perkins to Bring Civil
Action Against the State of Maine.

Amend the ~~R~~esolve by striking out all of the 5th paragraph
and inserting in its place the following:

'Beverly Mortimer and Dennis Perkins to bring civil action
against State. Resolved: That Beverly Mortimer, individually
and as natural guardian and next friend of the minor child
Dennis Perkins, is authorized to bring suit against the State
for injuries to Dennis Perkins which are alleged to have occurred
while he was in the custody of the State on or about October 2,
1976 in Limerick, Maine, and for which it is alleged the State is
liable because of its negligence.'

Further amend the ~~R~~esolve by striking out all of the 6th
and 7th paragraphs.

Further amend the ~~R~~esolve in the 8th paragraph by striking
out all of the 2nd sentence and inserting in its place the
following: 'Other parties may be joined with the State as
defendants in this action.'

Further amend the ~~R~~esolve by striking out all of the 9th
paragraph and inserting in its place the following:

'Any judgment that may be recovered in this civil action
shall be payable from the State Treasury on final process issued

by the Superior Court, or, if applicable, the Supreme Judicial Court and costs may be taxed for Beverly Mortimer and Dennis Perkins if they recover in the action and their recovery shall not exceed \$100,000, including costs. Hearing thereon shall be before a Justice of the Superior Court with or without a jury.'

Statement of Fact

Beverly Mortimer and Dennis Perkins contend that Dennis Perkins, the minor child of Beverly Mortimer, both now of Freeport, Maine, while in the custody of the State of Maine and placed in the foster care of Boy's Port, a subsidiary of New Life Farms, Inc., situated in Limerick, Maine, was willfully and intentionally injured on or about October 2, 1976, by another minor child also in the custody of the State of Maine. They further contend that the State of Maine, acting by and through the Department of Human Services, was negligent and should be liable for this negligence.

This amendment clarifies the provisions of the resolve and removes certain statements in the resolve that could be construed to be legislative findings of fact rather than allegations of the plaintiffs. The language is also clarified to insure that it is not construed that the Legislature is establishing the standards of liability in this case. The Legislature recognizes that different public policies may provide the basis for different standards of liability, depending on the institutional setting

and the status of the individuals involved. The court should be free to weigh these issues and apply the appropriate standards.

Reported by the Committee on Judiciary.

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3/15/78

(Filing No. H-1167)