

MAINE STATE LEGISLATURE

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L.D. 1330

(Filing No. H-385)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 923, L.D. 1330, Bill, "AN ACT Relating to Investigations of Child Abuse in Institutions Licensed by the State."

Amend the bill by striking out everything after the enacting clause.

'Sec. 1. 5 MRSA §1832 is enacted to read:

§1832. Contracts with day care facilities

Whenever the Department of Human Services fails to renew the contract or grant funding for or terminates the funding of a day care facility licensed under Title 22, chapter 1663 or chapter 1673 and the funding cancellation or failure to renew was a result of failure by the facility to take appropriate action to discharge or suspend an employee for actions resulting from or arising out of an investigation of child abuse or neglect, the department shall provide for the following:

1. Notice. Notice to the governing authority of the facility of the decision and of any rights under this section;

2. Appeal. A procedure to appeal the decision of the agency at a fair hearing; and

3. Continued funding. In cases where a hearing has been requested, continued funding until a decision is reached on the hearing.

This section is repealed October 1, 1987.

Sec. 2. 14 MRSA §168 is enacted to read:

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1 §168. Day care facility immunity for certain person-
2 nel action

3 1. Governing authority. The governing authority
4 of a day care facility licensed under Title 22, chap-
5 ter 1663 or chapter 1673 is not liable for any mone-
6 etary award of damages, except to the extent of any
7 coverage limits on a policy of insurance, for any
8 personnel action taken in good faith as a result of
9 or arising out of an investigation of child abuse or
10 neglect at that facility, if that action was based on
11 a recommendation or suggestion of the Department of
12 Human Services.

13 2. Individual members of the governing authori-
14 ty. Members of the governing authority of a day care
15 facility licensed under Title 22, chapter 1663 or
16 chapter 1673 are not liable for any monetary award of
17 damages for any personnel action taken in good faith
18 as a result of or arising out of an investigation of
19 child abuse or neglect at that facility, if the ac-
20 tion was based on a recommendation or suggestion of
21 the Department of Human Services.

22 3. Just cause for personnel action. This sec-
23 tion does not preclude an employee from seeking
24 nonmonetary damages in court action to determine if
25 there was just cause for his discharge or suspension.

26 4. Sunset provision. This section is repealed
27 October 1, 1987.

28 STATEMENT OF FACT

29 This amendment replaces the original bill. It
30 provides a method for day care facilities to appeal a
31 decision of the Department of Human Services if the
32 department terminates a funding contract or fails to
33 renew a funding contract based on the facility's
34 failure to discharge or suspend an employee for ac-

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1 tions resulting from or arising out of an investiga-
2 tion of child abuse or neglect.

3 It also provides immunity for monetary damages
4 for a member of the governing body of a day care fa-
5 cility for personnel actions it takes, in good faith,
6 if that action was the result of a recommendation or
7 suggestion of the Department of Human Services. In
8 addition, it provides the same immunity to the gov-
9 erning body, except to the extent of any insurance it
10 might have.

11 Both sections of this bill are repealed October
12 1, 1987, so that its operation must be reviewed in 2
13 years to evaluate its operation.

Reported by the Committee on Human Resources
Reproduced and distributed under the direction of the
Clerk of the House

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