

# MAINE STATE LEGISLATURE

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L.D. 2496  
(Filing No. S-525)

STATE OF MAINE  
SENATE  
113TH LEGISLATURE  
SECOND REGULAR SESSION

7 SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A"  
8 to H.P. 1821, L.D. 2496, Bill, "AN ACT to Provide a  
9 Mechanism for Insurance for Foster Care and Respite  
10 Care."

11 Amend the amendment in section 2 in subsection 3  
12 by striking out all of the last 2 sentences (page 3,  
13 lines 36 to 39 and page 4, lines 1 to 5 in amendment)  
14 and inserting in their place the following:

15 'In any action for damages against a family foster  
16 home provider insured pursuant to Title 5, section  
17 1728-A, for damages covered under that policy, the  
18 claim for and award of those damages, including costs  
19 and interest, shall not exceed \$300,000 for any and  
20 all claims arising out of a single occurrence. When  
21 the amount awarded to or settled for multiple  
22 claimants exceeds the limit imposed by this section,  
23 any party may apply to the Superior Court for the  
24 county in which the governmental entity is located to  
25 allocate to each claimant that claimant's equitable  
26 share of the total, limited as required by this  
27 section. Any award by the court in excess of the  
28 maximum liability limit shall be automatically abated  
29 by operation of this section to the maximum limit of  
30 liability. Nothing in this subsection may be deemed  
31 to make the operation of a family foster home a state  
32 activity nor may it expand in any way the liability of  
33 the State or foster parent.'

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A" to  
H.P. 1821, L.D. 2496

1 Further amend the amendment in section 3 in  
2 subsection 2-A by striking out all of the last 2  
3 sentences (page 4, lines 16 to 24 in amendment) and  
4 inserting in their place the following:

5 'In any action for damages against a respite care  
6 provider insured pursuant to Title 5, section 1728-A,  
7 for damages covered under that policy, the claims for  
8 and award of those damages, including costs and  
9 interest, shall not exceed \$300,000 for any and all  
10 claims arising out of a single occurrence. When the  
11 amount awarded to or settled for multiple claimants  
12 exceeds the limit imposed by this section, any party  
13 may apply to the Superior Court for the county in  
14 which the governmental entity is located to allocate  
15 to each claimant that claimant's equitable share of  
16 the total, limited as required by this section. Any  
17 award by the court in excess of the maximum liability  
18 limit shall be automatically abated by operation of  
19 this section to the maximum limit of liability.  
20 Nothing in this subsection may be deemed to make  
21 respite care a state activity nor may it expand in any  
22 way the liability of the State or respite care  
23 provider.'

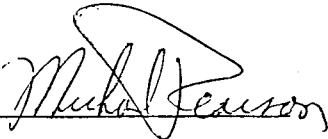
24 STATEMENT OF FACT

25 This amendment clarifies that there is a \$300,000  
26 limit only for damages allowed under the insurance  
27 policy. Intentional torts would not be covered under  
28 the policy. The amendment also includes interest with  
29 costs. The amendment adds language clarifying the  
30 process of apportionment of claims when there are  
31 multiple claimants.

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33 (Sen. PEARSON)  
34 SPONSORED BY:



35 COUNTY: Penobscot