

MAINE STATE LEGISLATURE

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L.D. 2496

(Filing No. H- 552)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
SECOND REGULAR SESSION

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

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Amend the bill by striking out everything after
the enacting clause and inserting in its place the
following:

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'Sec. 1. 5 MRSA §1728-A, sub-§1, as enacted by
PL 1983, c. 349, §9, is amended to read:

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§1728-A. Powers and duties of the director

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1. Duties. The director shall provide insurance
advice and services for the State Government and any
department or agency thereof for all forms of
insurance, except for those departments or agencies
and those types of insurance otherwise provided for by
law. The director shall provide insurance advice and
services for family foster homes, as defined in Title
22, section 8101, subsection 3, and respite care
providers, as defined in Title 34-B, section 6201,
subsection 2-A. The director shall be responsible for
the acquisition and administration of all insurance
purchased by the State, including the authority to
purchase, on a competitive bid basis, insurance for
the State for automobile, fire, liability and any
other type of coverage which may be necessary to
protect the State from financial loss. The director
may enter into contracts for various types of claims
management services in order to insure the most
economically advantageous insurance protection in the
operation of the ~~state's~~ State's insurance coverage
program. In these regards, the director has the
following duties:

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1 A. To review annually the entire subject of
2 insurance as it applies to all state property and
3 activities and other persons pursuant to this
4 section, and to provide to the commissioner a
5 statement of its activities during the year ending
6 the preceding June 30th. This report shall
7 include:

8 (1) An evaluation of the state insurance
9 program;

10 (2) A complete statement of all types and
11 costs of insurance in effect;

12 (3) Names of agents and companies of record;
13 and

14 (4) Such other matters as the director
15 determines to be appropriate and necessary or
16 as the commissioner may request;

17 B. To recommend to the commissioner such
18 insurance protection as the director may deem
19 necessary or desirable for the protection of all
20 state property or activities or other insureds
21 under this section;

22 C. Pursuant to programs approved by the
23 commissioner, to provide insurance protection for
24 state property and liability insurance in
25 accordance with the Maine Tort Claims Act, Title
26 14, section 8116, and premises liability, when
27 required by a state lease or private property
28 approved by the Attorney General, by self-insured
29 retention, as provided, or purchase of insurance
30 from companies or agents licensed to do business
31 in this State, or by both, to effect the best
32 possible contracts as to services, coverages and
33 costs. The purchase of insurance under this
34 section normally shall be made upon competitive
35 bidding, except that the director may, in
36 appropriate circumstances, purchase insurance by
37 negotiation.

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1 In the event of the purchase of insurance upon
2 competitive bidding by qualified insurers, the
3 director shall announce the low bid at a meeting
4 advertised for the opening of bids, which, when
5 approved by the commissioner, shall constitute an
6 award of a contract of insurance;

7 D. To determine and review the values of property
8 in which the State has an insurable or legal
9 interest and recommend limits and types of
10 insurance protection for that property;

11 E. To establish and promote safety and other loss
12 prevention programs;

13 F. To receive and, with the assistance of the
14 Attorney General, administer all claims for
15 personal injury and property damage against the
16 State; and

17 G. With the assistance of the Attorney General,
18 to pursue all claims against 3rd parties in all
19 cases in which the State may be subrogated to the
20 rights of injured employees or where damage to
21 state property may have resulted from the
22 negligence of a 3rd party.

23 Sec. 2. 22 MRSA §8101, sub-§3, as amended by PL
24 1983, c. 629, §1, is further amended to read:

25 3. Family foster home. "Family foster home" means
26 a children's home that is a private dwelling where
27 substitute parental care is provided within a family
28 on a regular, 24-hour a day, residential basis. The
29 total number of children in care may not exceed 6,
30 including the family's legal children under 16 years
31 of age, with no more than 2 of these children under
32 the age of 2. Family foster homes licensed by the
33 Department of Human Services or relatives' homes
34 approved by the Department of Human Services as
35 meeting licensing standards are eligible for insurance
36 pursuant to Title 5, section 1728-A. In any action
37 for damages against a family foster home provider
38 insured pursuant to Title 5, section 1728-A, the claim
39 for and award of damages, including costs, shall not

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1 exceed \$300,000 for any and all claims arising out of
2 a single occurrence. Nothing in this subsection may
3 be deemed to make the operation of a family foster
4 home a state activity nor may it expand in any way the
5 liability of the State or foster parent.

6 Sec. 3. 34-B MRSA §6201, sub-§2-A is enacted to
7 read:

8 2-A. Respite care. "Respite care" means
9 temporary care-giving to a child or adult for the
10 purpose of relieving that person's family or another
11 primary care-giver. Persons who have completed the
12 training program for respite care providers through
13 the Department of Human Services or the Department of
14 Mental Health and Mental Retardation are eligible for
15 any insurance provided to family foster home providers
16 pursuant to Title 5, section 1728-A. In any action
17 for damages against a respite care provider insured
18 pursuant to Title 5, section 1728-A, the claims for
19 and award of damages, including costs, shall not
20 exceed \$300,000 for any and all claims arising out of
21 a single occurrence. Nothing in this subsection may
22 be deemed to make respite care a state activity nor
23 may it expand in any way the liability of the State or
24 respite care provider.

25 Sec. 4. Appropriation. The following funds are
26 appropriated from the General Fund to carry out the
27 purposes of this Act.

28		<u>1988-89</u>
29	<u>HUMAN SERVICES, DEPARTMENT OF</u>	
30	Bureau of Social Services	
31	All Other	\$67,500
32	Provides funds for	
33	insurance for licensed	
34	family foster homes.	
35	DEPARTMENT OF HUMAN SERVICES	
36	TOTAL	<u>\$67,500</u>

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1	<u>MENTAL HEALTH AND MENTAL</u>	
2	<u>RETARDATION, DEPARTMENT OF</u>	
3	Bureau of Children with Special	
4	Needs	
5	All Other	\$ 6,000
6	Provides funds for	
7	insurance for licensed	
8	respite care providers.	
9	Bureau of Mental Retardation	
10	All Other	5,040
11	Provides funds for	
12	insurance for licensed	
13	respite care providers.	
14	DEPARTMENT OF MENTAL HEALTH AND	
15	MENTAL RETARDATION	
16	TOTAL	<u>\$11,040</u>

17 STATEMENT OF FACT

18 This amendment gives the same authorization for
19 the Risk Management Division to obtain insurance or to
20 self-insure foster parents and respite care providers
21 as in the original bill. It takes out the reference
22 to these 2 activities as being "state activities" in
23 order to prevent invitation to sue the State. A
24 statement limiting the liability of the State is also
25 included. An appropriation section has been added.
26 This program will require an appropriation from the
27 General Fund in fiscal year 1988-89 amounting to
28 \$78,540.

29 5182032588