

MAINE STATE LEGISLATURE

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L.D. 846

(Filing No. H- 310)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 623, L.D. 846, Bill, "An Act to Amend the Child and Family Services and Child Protection Act"

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

Sec. 1. 14 MRSA §8111, sub-§1, as repealed and replaced by PL 1987, c. 740, §8 is amended to read:

§8111. Personal immunity for employees; procedure

1. Immunity. Notwithstanding any liability that may have existed at common law, employees of governmental entities shall be absolutely immune from personal civil liability for the following:

A. Undertaking or failing to undertake any legislative or quasi-legislative act, including, but not limited to, the adoption or failure to adopt any statute, charter, ordinance, order, rule, policy, resolution or resolve;

B. Undertaking or failing to undertake any judicial or quasi-judicial act, including, but not limited to, the granting, granting with conditions, refusal to grant or revocation of any license, permit, order or other administrative approval or denial;

C. Performing or failing to perform any discretionary function or duty, whether or not the discretion is abused; and whether or not any statute, charter, ordinance, order, resolution, rule or resolve under which the discretionary function or duty is performed is valid;

D. Performing or failing to perform any prosecutorial function involving civil, criminal or administrative enforcement; or

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3 E. Any intentional act or omission within the course and
5 scope of employment; provided that such immunity shall not
exist in any case in which an employee's actions are found
to have been in bad faith.

7 The absolute immunity provided by this subsection shall be
9 applicable whenever a discretionary act is reasonably encompassed
11 by the duties of the governmental employee in question,
13 regardless of whether the exercise of discretion is specifically
15 authorized by statute, charter, ordinance, order, resolution,
17 rule or resolve and shall be available to all governmental
employees, including police officers and governmental employees
involved in child welfare cases, municipal overseers of the poor
and general assistance administrators, who are required to
exercise judgment or discretion in performing their official
duties.

19 Sec. 2. 22 MRSA §3741-C is enacted to read:

21 §3741-C. Child unaccompanied by parent or legal guardian

23 The following provisions apply to children who apply for
25 municipal assistance and are not accompanied by a parent or legal
guardian.

27 1. Department's responsibility. Upon application by a
29 municipality, the department shall provide case management
services to a child who applies and is found eligible for
31 municipal assistance under chapter 1161. The department shall
assign a caseworker who shall evaluate the child's situation and
determine what services the child needs.

33 2. Definition. As used in this section, "child" means any
35 person who is less than 18 years of age and who has not been
emancipated under Title 15, section 3506-A.

37 3. Procedures. The following provisions apply to
39 application, determination and appeal of determinations under
this section.

41 A. The department shall provide that a municipality wishing
43 to make application under this section may do so by the end
of the next business day of the department.

45 B. The department shall determine whether the child is
47 eligible for case management under this section. That
determination shall be in writing and shall be given in
49 person or mailed to the child and to the municipality by the
end of the next business day of the department after the
51 date of the municipality's application.

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C. Within one month of the issuance of a determination of eligibility, the department shall provide the child and the applicable municipality with a written decision of all services for which the child is eligible.

D. A municipality or child who is aggrieved by a decision or action of the department under this section may appeal the decision or action pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. The appeal shall be heard within 30 days of receipt of a request for a hearing and shall be conducted by a fair hearing officer who was not responsible for the decision or action appealed.

Sec. 3. 22 MRSA §4307, sub-§5-A is enacted to read:

5-A. Minors. When a child applies for assistance and is not accompanied by a parent or legal guardian, the municipality may apply to the department by telephone or in writing for a determination of eligibility for services under section 3741-C. The municipality shall provide assistance for basic necessities in accordance with this chapter. If the municipality has applied to the department under section 3741-C, the department shall reimburse the municipality for 100% of its expenses under this section. Nothing in this section permits a municipality to deny assistance to an otherwise eligible child when there is any dispute regarding parental or departmental responsibility.

Sec. 4. Report. The Department of Human Services shall report its findings to the Joint Standing Committee on Human Resources by February 1, 1991 on the operation of this Act.

Sec. 5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
HUMAN SERVICES, DEPARTMENT OF		
General Assistance - Reimbursement to Cities and Towns		
All Other	\$1,350,000	\$1,800,000
Provides funds to reimburse municipalities 100% of their expenses for assistance provided by the municipalities to minors.		

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Family Services Program

All Other	\$539,036	\$718,714
Provides funds to contract with community organizations for caseworkers to provide evaluation and assessment of the child's service needs.		

**DEPARTMENT OF HUMAN SERVICES
TOTAL**

<u>\$1,889,036</u>	<u>\$2,518,714</u>
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STATEMENT OF FACT

This amendment provides that a municipality may apply to the Department of Human Services, when an unaccompanied minor has been found eligible for general assistance, for a determination by the department of what services may be available for the minor. The municipality shall be reimbursed by the State 100% of the expenses for the assistance provided by the municipality to the minor.

Reported by the Committee on Human Resources
Reproduced and distributed under the direction of the Clerk of the House
5/25/89 (Filing No. H-310)