

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

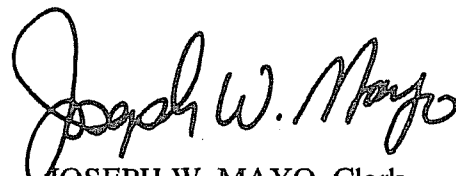
No. 1204

H.P. 890

House of Representatives, April 8, 1993

An Act to Amend the Laws Regarding Home Baby-sitting Services and to Provide Rules for Licensing Fees for Day Care Facilities, Nursery Schools and Home Baby-sitting Services.

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative LIPMAN of Augusta.
Cosponsored by Representative: FARNSWORTH of Hallowell, Senators: BERUBE of Androscoggin, HANLEY of Oxford.

Be it enacted by the People of the State of Maine as follows:

2
4 Sec. 1. 22 MRSA §8303, as enacted by PL 1975, c. 719, §6, is repealed and the following enacted in its place:

6 §8303. Fee for licenses

8 The department may establish, by rule, reasonable fees for
10 both initial licensure or certification and license or
12 certification renewals for day care facilities, nursery schools
14 and registered home baby-sitting services.

16 Sec. 2. 22 MRSA §8305, sub-§1, as repealed and replaced by PL
18 1985, c. 358, §1, is amended to read:

20 1. Registration. Persons providing home day care on a
22 regular basis for 3 to 12 children under the 16 years of age of
24 16 unrelated to the provider ~~on a regular basis~~ shall be required
26 to register with the Department of Human Services as a home
28 baby-sitting service. The department shall issue a certificate
30 of registration to the home baby-sitting service provider, upon
32 receipt of evidence from the registrant that:

34 A. The provider is at least 18 years of age;

36 B. The provider has had a standard skin test for
38 tuberculosis, as approved by the Division of Disease
40 Control, Bureau of Health, and that the test is negative or,
42 if the skin test is positive, an appropriate follow-up test,
44 as approved by the Division of Disease Control, is negative.
46 Subsequent testing may be required by the Division of
48 Disease Control.

50 ~~No A provider may be compelled to undergo a test for~~
~~tuberculosis~~ who states in writing that it is contrary to
his that provider's religious teachings and practice may not
be compelled to undergo a test for tuberculosis;

 C. The water used for drinking and cooking:

 (1) Comes from a municipal water supply; or

 (2) Has been tested on an annual basis and meets the
standards established by the Division of Health
Engineering or a laboratory approved by the department;

 D. The home has been inspected annually by the State Fire
Marshal or one of the officials designated under Title 25,
section 2360, 2391 or 2392 for compliance with fire and
safety provisions of the National Fire Protection

2 Association Life Safety Code of 1976, Sections 9-5.4 and
3 9-5.5. If the provider makes a change in the heating system,
4 including installation of a wood or coal stove, or makes
5 major structural alterations to the home, there shall must
6 be another fire inspection;

7 E. If the provider is caring for 6 or more preschool
8 children, there will must be an additional provider present
9 whenever the children are on the premises. The additional
10 provider must be at least 14 years of age and have had a
11 tuberculosis test, as provided in paragraph -A- B; and

12 F. The provider ~~or~~ other residents ~~of~~ or other persons who
13 frequent the home ~~has never have not~~ been convicted of a
14 crime in which a child abuse was a victim; have not been
15 found, in any statutorily authorized forum, to have abused
16 or neglected children or neglect as defined in section 4002,
17 ~~or have not~~ had parental rights terminated ~~as provided in~~
18 ~~chapter 1071, the Child and Family Services and Child~~
19 ~~Protection Act~~ by any statutorily authorized entity.

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21 ~~Along with the proofs of compliance, the provider shall submit a~~
22 ~~registration fee of \$20 every 2 years.~~

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28 **STATEMENT OF FACT**

29 Current law provides for an initial application fee of \$10
30 and a \$20 biannual reapplication fee for licensure as either a
31 day care facility, nursery school or registered home baby-sitting
32 service. This bill removes the amount of these fees from the law
33 and requires the department to establish rules for charging
34 reasonable fees.

35 The laws authorizing the operation of home baby-sitting
36 services via registration contain an error. The Maine Revised
37 Statutes, Title 22, section 8305 directs the issuance of a
38 registration if certain conditions are met. Paragraph F of that
39 section, in pertinent part, directs that the proposed registrant
40 or other residents of the home may not have been convicted of
41 child abuse and neglect as defined in Title 22, section 4002.

42 Because the Child and Family Services and Child Protection
43 Act is civil, rather than criminal, it is impossible to be
44 convicted pursuant to its provisions. Child abuse and neglect,
45 as defined by that Act, is a civil violation, for which one
46 available penalty is the withholding of a registration to provide
47 home baby-sitting services.
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2 It is clearly the intent of Title 22, section 8305 to
3 exclude from registration those individuals who have been found
4 by a court, whether by civil or criminal standard of proof, to
5 have abused or neglected children.

6 This bill corrects the law so its original intent is met,
7 and expands the scope of exclusion from operators of services and
8 residents to those individuals who frequent the home.