

MAINE STATE LEGISLATURE

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L.D. 1262

(Filing No. S-193)

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 404, L.D. 1262, Bill, "An Act Regarding Child Molestation"

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Sec. 1. 17-A MRSA §1322, sub-§3, as amended by PL 1989, c. 872, §5 and c. 924, §13, is repealed and the following enacted in its place:

3. Economic loss. "Economic loss" includes economic detriment consisting of environmental clean-up expense, property loss, allowable expense, work loss, replacement services loss and, if injury causes death, dependent's economic loss and dependent's replacement services loss. Noneconomic detriment is not loss. Economic detriment is loss although caused by pain and suffering or physical impairment. "Economic loss" includes expenses of an emergency response by any public agency.

A. "Allowable expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, counseling services and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. The term includes reasonable and customary charges incurred for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related

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2 services, in excess of a reasonable and customary charge for
3 semiprivate accommodations, unless other accommodations are
4 medically required.

6 B. "Dependent's economic loss" means loss after a
7 decedent's death of contributions of things of economic
8 value to the decedent's dependents, not including services
9 they would have received from the decedent if the decedent
10 had not suffered the fatal injury, less expenses of the
11 dependents avoided by reason of decedent's death.

12 C. "Dependent's replacement loss" means loss reasonably
13 incurred by dependents after a decedent's death in obtaining
14 ordinary and necessary services in lieu of those the
15 decedent would have performed for their benefit if the
16 decedent had not suffered the fatal injury, less expenses of
17 the dependents avoided by reason of the decedent's death and
18 not subtracted in calculating dependent's economic loss.

20 C-1. "Environmental clean-up expense" means any reasonable
21 expense incurred for products and services needed to clean
22 up any harm or damage caused to the environment, including
23 any harm or damage caused by chemicals; to restore the
24 environment to its previous condition prior to any harm or
25 damage; and to properly dispose of chemicals and other
26 materials, including those used in the manufacture of
27 scheduled drugs in violation of chapter 45.

28 C-2. "Expense of an emergency response" means reasonable
29 costs incurred by a public agency in reasonably making an
30 appropriate emergency response to the incident, but only
31 includes those costs directly arising because of the
32 response to the particular incident. Reasonable costs
33 include the costs of providing police, firefighting, rescue
34 and emergency medical services at the scene of the incident,
35 as well as the compensation for the personnel responding to
36 the incident. "Public agency" means the State or any
37 county, municipality, district or public authority located,
38 in whole or in part, within this State that provides or may
39 provide police, firefighting, ambulance or other emergency
40 services.

42 D. "Property loss" means the value of property taken from
43 the victim, or of property destroyed or otherwise broken or
44 harmed. A property loss includes the value of taxes or
45 other obligations due to the government that have not been
46 paid. "Property loss" also includes, in cases involving a
47 violation of chapter 45, the value of money or other
48 consideration given or offered in exchange for scheduled
49 drugs by a law enforcement officer or another at the
50

2 direction of a law enforcement officer that are not, in
4 fact, recovered by the State at the time of sentencing,
6 regardless of whether other money or items of value are
8 sought, acquired or forfeited pursuant to Title 15, chapter
10 515. In cases involving a violation of chapter 45, the
12 court must make a finding that the property loss is
14 specifically related to that case.

16 E. "Replacement services loss" means expenses reasonably
18 incurred in obtaining ordinary and necessary services in
20 lieu of those the injured person would have performed, not
22 for income but for the benefit of the injured person or the
24 injured person's family, if the injured person had not been
26 injured.

28 F. "Work loss" means loss of income from work the injured
30 person would have performed if the injured person had not
32 been injured and expenses reasonably incurred by the injured
34 person in obtaining services in lieu of those the injured
36 person would have performed for income, reduced by any
38 income for substitute work actually performed by the injured
40 person or by income the injured person would have earned in
42 available appropriate substitute work the injured person was
44 capable of performing but unreasonably failed to undertake.'

28 **STATEMENT OF FACT**

30 This amendment replaces the bill. It inserts for
32 clarification purposes only that counseling services are an
34 allowable expense of economic loss for which a court may order a
36 defendant to pay restitution. It is important to note that
38 counseling expenses are already an allowable expense, and that
40 this amendment makes no substantive change in the law.
42 "Counseling services" is inserted because the Judiciary Committee
44 wants to make it absolutely clear that a court is authorized to
46 order a defendant to pay restitution to a crime victim to cover
the costs of the victim's counseling services that are necessary
because of the commission of the crime. The original bill refers
to child molestation crimes, and victims of such crimes very
frequently need or benefit from counseling. This addition in
language to the list of allowable expenses is not limited to
counseling for crimes involving child molestation, however, and
the court's discretion to order payment of counseling services
expenses is not limited by this amendment.

48 This amendment also corrects a conflict incorporating the
50 changes made by Public Law 1989, chapters 872 and 924. Public
Law 1989, chapter 872 made technical changes, added expenses of

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2 an emergency response by any public agency as an economic loss
and added a definition for expense of an emergency response.
4 Public Law 1989, chapter 924 made technical changes, added
environmental clean-up expense as an economic loss and added a
definition for environmental clean-up expenses.

Reported by Senator Conley for the Committee on Judiciary.
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