

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1993

Legislative Document

No. 1571

S.P. 546

In Senate, December 14, 1993

Resolve, Authorizing Charles and Rachel Dellea to Sue the Department of Human Services for Negligence.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Received by the Secretary of the Senate on December 14, 1993. Referred to the Committee on Legal Affairs and 1200 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LAWRENCE of York.

2 **Sec. 1. Authorization to sue the State. Resolved:** That,
3 notwithstanding any law to the contrary, Charles Dellea and
4 Rachel Dellea, of Eliot, or their legal representative, who claim
5 to have suffered damages as a result of the alleged failure of
6 the Department of Human Services to adequately provide services
7 to Randy Burgess and the children of Randy Burgess and the
8 department's failure to file a protective custody action against
9 Randy Burgess to remove the children from his custody, are
10 authorized to bring a civil action against the State, but not
11 against individual past or present employees of the State.

12 This action may be brought in the York County Superior Court
13 within one year from the date this resolve is approved.
14 Liability and damages, including punitive damages, must be
15 determined according to state law as in litigation between
16 individuals. The action may be heard by a Justice of the
17 Superior Court or by a jury. The Maine Rules of Civil Procedure
18 govern the conduct of the action. The Attorney General shall
19 appear, answer and defend the action.
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21 The Treasurer of State shall pay any judgment, including
22 costs and interest, on final process issued by the Superior Court
23 or, if applicable, the Supreme Judicial Court. Recovery may not
24 exceed \$100,000, including costs and interest.

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STATEMENT OF FACT

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29 This resolve authorizes Charles Dellea and Rachel Dellea, of
30 Eliot, to sue the State for damages resulting from the alleged
31 failure of the Department of Human Services to adequately provide
32 services to Randy Burgess and the children of Randy Burgess and
33 the department's failure to file a protective custody action
34 against Randy Burgess to remove the children from his custody.

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41 This document has not yet been reviewed to determine the
42 need for cross-reference, stylistic and other technical
43 amendments to conform existing law to current drafting standards.