

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

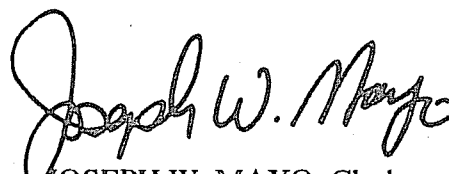
No. 1818

H.P. 1352

House of Representatives, February 1, 1994

**An Act to Establish the Right of Grandparents to Act as Foster Parents
for Their Grandchildren.**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BAILEY of Township 27.

Cosponsored by Representatives: AHEARNE of Madawaska, AIKMAN of Poland, ANDERSON of Woodland, AULT of Wayne, BAILEY of Farmington, BARTH of Bethel, BENNETT of Norway, BIRNEY of Paris, BRUNO of Raymond, CAMERON of Rumford, CAMPBELL of Holden, CARLETON of Wells, CATHCART of Orono, CLARK of Millinocket, CLEMENT of Clinton, CLUKEY of Houlton, COFFMAN of Old Town, COTE of Auburn, CROSS of Dover-Foxcroft, DEXTER of Kingfield, DONNELLY of Presque Isle, DRISCOLL of Calais, ERWIN of Rumford, FARNUM of South Berwick, FARREN of Cherryfield, FOSS of Yarmouth, GAMACHE of Lewiston, GOULD of Greenville, GRAY of Sedgwick, GREENLAW of Standish, HEINO of Boothbay, HICHBORN of LaGrange, HILLOCK of Gorham, HOGLUND of Portland, JACQUES of Waterville, JOHNSON of South Portland, JOSEPH of Waterville, JOY of Island Falls, KERR of Old Orchard Beach, KETTERER of Madison, KILKELLY of Wiscasset, KUTASI of Bridgton, LARRIVEE of Gorham, LEMKE of Westbrook, LEMONT of Kittery, LIBBY of Kennebunk, LIPMAN of Augusta, LOOK of Jonesboro, LORD of Waterboro, MacBRIDE of Presque Isle, MARSH of West Gardiner, MARSHALL of Eliot, MELENDY of Rockland, MURPHY of Berwick,

Additional cosponsors on next page

NASH of Camden, NICKERSON of Turner, NORTON of Winthrop, O'GARA of Westbrook, OLIVER of Portland, OTT of York, PENDEXTER of Scarborough, PFEIFFER of Brunswick, PLOURDE of Biddeford, PLOWMAN of Hampden, POULIOT of Lewiston, RAND of Portland, REED of Falmouth, REED of Dexter, RICKER of Lewiston, ROBICHAUD of Caribou, SIMONEAU of Thomaston, SMALL of Bath, SPEAR of Nobleboro, STEVENS of Orono, STEVENS of Sabattus, STROUT of Corinth, SULLIVAN of Bangor, SWAZEY of Bucksport, TARDY of Palmyra, TAYLOR of Cumberland, THOMPSON of Lincoln, TOWNSEND of Eastport, TRACY of Rome, TRUE of Fryeburg, TUFTS of Stockton Springs, VIGUE of Winslow, WALKER of Blue Hill, WHITCOMB of Waldo, YOUNG of Limestone, ZIRNKILTON of Mount Desert, Senators: BUSTIN of Kennebec, BUTLAND of Cumberland, CAHILL of Sagadahoc, CAREY of Kennebec, CARPENTER of York, GOULD of Waldo, HALL of Piscataquis, HANDY of Androscoggin, HANLEY of Oxford, KIEFFER of Aroostook, PEARSON of Penobscot, VOSE of Washington.

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

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Sec. 1. 22 MRSA §4004, sub-§4 is enacted to read:

4. Grandparents as foster parents. If the home of the child's grandparent is licensed as a family foster home under section 8101, subsection 3, the department shall place the child in that family foster home unless the department determines that such a placement is not in the child's best interest. If the department does not place the child in the grandparent's home, the department shall provide to the grandparent a written explanation of why that placement is not in the child's best interest.

Sec. 2. 22 MRSA §8101, sub-§3, as amended by PL 1987, c. 778, §2, is further amended to read:

3. Family foster home. "Family foster home" means a children's home that is a private dwelling where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis. The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. Notwithstanding subsection 1, a person's home may be licensed as a family foster home for that person's grandchild. Family foster homes licensed by the Department of Human Services or relatives' homes approved by the Department of Human Services as meeting licensing standards are eligible for insurance pursuant to Title 5, section 1728-A. In any action for damages against a family foster home provider insured pursuant to Title 5, section 1728-A, for damages covered under that policy, the claim for and award of those damages, including costs and interest, shall not exceed \$300,000 for any and all claims arising out of a single occurrence. When the amount awarded to or settled for multiple claimants exceeds the limit imposed by this section, any party may apply to the Superior Court for the county in which the governmental entity is located to allocate to each claimant that claimant's equitable share of the total, limited as required by this section. Any award by the court in excess of the maximum liability limit shall be automatically abated by operation of this section to the maximum limit of liability. Nothing in this subsection may be deemed to make the operation of a family foster home a state activity nor may it expand in any way the liability of the State or foster parent.

STATEMENT OF FACT

This bill provides that when the Department of Human Services is placing a child in a foster home, the department must

2 place the child in that child's grandparent's home if the
grandparent's home is licensed as a family foster home, unless
4 doing so is not in the child's best interest. If the department
determines that placing the child in the grandparent's home would
6 not be in the child's best interest, then the department must
provide a written explanation to the grandparent.

8 This bill expands the definition of "family foster home" to
allow grandparents' homes to be licensed as family foster homes
10 for their grandchildren.

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