

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1114

S.P. 336

In Senate, February 18, 1997

**Resolve, to Extend the Protections against Spousal Impoverishment  
under the Medicaid Program.**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

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

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator PINGREE of Knox.  
Cosponsored by Representative KONTOS of Windham and  
Senator RUHLIN of Penobscot, Representatives: CHARTRAND of Rockland, ETNIER of  
Harpwell, LOVETT of Scarborough, ROWE of Portland, SAVAGE of Union, TOWNSEND  
of Portland, WINGLASS of Auburn.

2           **Emergency preamble.** Whereas, Acts and resolves of the  
Legislature do not become effective until 90 days after  
adjournment unless enacted as emergencies; and

4           **Whereas,** under current Medicaid regulations, a spouse who  
6 remains at home after his or her spouse is admitted to a nursing  
facility receives a monthly support allowance from the  
8 noninstitutionalized spouse; and

10           **Whereas,** current regulations do not extend such protection  
to spouses of residents of cost-reimbursed residential care  
12 facilities; and

14           **Whereas,** absent such spousal support protections, a spouse  
may be in drastically reduced financial circumstances as a result  
16 of the institutionalization of the other spouse, a condition  
known as "spousal impoverishment"; and

18           **Whereas,** this inequity in the system creates disincentives  
20 for people to use less restrictive alternatives to nursing  
facility care; and

22           **Whereas,** this legislation requires the Department of Human  
24 Services to amend its rules to redress this inequity no later  
than July 1, 1997; and

26           **Whereas,** in the judgment of the Legislature, these facts  
28 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
30 necessary for the preservation of the public peace, health and  
safety; now, therefore, be it

32           **Sec. 1. Amend rules. Resolved:** That the Department of Human  
34 Services, Bureau of Family Independence shall amend its rules  
governing Medicaid financial eligibility no later than July 1,  
36 1997 and extend resource and income protection equivalent to that  
presently available to the spouses of individuals residing in  
38 nursing facilities to the spouses of residents of cost-reimbursed  
residential care facilities; and be it further

40           **Sec. 2. Study. Resolved:** That the Commissioner of Human  
42 Services, in conjunction with the Long-term Care Steering  
Committee, shall undertake a study of the levels of spousal and  
44 family support assistance available to both married and single  
recipients of services under the different long-term care and  
46 assisted living programs and develop recommendations regarding  
the promotion of greater equity in the levels of resource and  
48 income support allowances available to the spouses and families  
of individuals receiving long-term health care in various  
50 settings. In the course of the study the commissioner and the  
Long-term Care Steering Committee shall consult with the

2 long-term care ombudsman program, Legal Services for the Elderly,  
the Alzheimer's Association, other consumer representatives and  
4 providers of long-term care services; and be it further

6 **Sec. 3. Report. Resolved:** That the Commissioner of Human  
Services shall submit a report, containing recommendations to the  
8 Joint Standing Committee on Health and Human Services no later  
than November 1, 1998. The commissioner and the Long-term Care  
10 Steering Committee may submit proposed legislation concerning  
financial support for the spouses and families of long-term care  
12 recipients.

14 **Emergency clause.** In view of the emergency cited in the  
preamble, this resolve takes effect when approved.  
16

### 18 SUMMARY

20 This bill requires the Department of Human Services to amend  
its rules to extend spousal support protections to the spouse of  
22 a resident of a cost-reimbursed residential care facility to the  
same extent as is now available to the spouse of a nursing  
24 facility resident. The bill also requires that the department,  
in consultation with the Long-term Care Steering Committee and  
26 other interested groups, examine the support available under  
different long-term care programs to the spouses and families of  
28 single and married long-term care recipients and to make  
recommendations for ensuring greater equity in the income and  
30 resource protections extended to individuals who are similarly  
situated.