MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

S.P. 104

In Senate, January 11, 1999

Resolve, to Allow Zelma Rudge to Sue the State.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator MICHAUD of Penobscot. Cosponsored by Representative: STANLEY of Medway. Sec. 1. Authorization to sue the State. Resolved: That, notwithstanding any statute or common law to the contrary, Zelma Rudge, as personal representative of the estate of Victor Lizzotte of Enfield, who claims to have suffered damage as a result of alleged negligence by the Department of Human Services in failing to properly exercise its duty to supervise the visitation of Victor Lizzotte with George Lizzotte and to protect Victor Lizzotte from harm from George Lizzotte during supervised visitation, which neglect resulted in Victor's death, is authorized to bring a civil action against the State.

This action may be brought in the Penobscot County Superior Court within one year from the date this resolve is approved. Liability and damages, including punitive damages, must be determined according to state law as in litigation between individuals. This action may be heard by a Justice of the Superior Court or by a jury. The Maine Rules of Civil Procedure govern the conduct of the action. The Attorney General shall appear, answer and defend the action.

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The Treasurer of State shall pay any judgment, including cost and interest, on final process issued by the Superior Court or, if applicable, the Supreme Judicial Court. Recovery may not exceed \$250,000 or the applicable insurance policy limits, including costs and interest.

SUMMARY

This resolve authorizes Zelma Rudge, as personal representative of the estate of Victor Lizzotte, to bring a civil action against the State for damages resulting from the alleged negligence of the Department of Human Services concerning the death of Victor Lizzotte.