

# MAINE STATE LEGISLATURE

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R.R.R.

L.D. 523

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 392, L.D. 523, Bill, "An Act to Implement Recommendations of the Maine Indian Tribal-State Commission Relating to Child Welfare Services for Indian Children"

Amend the bill in section 1 in subsection 1 by striking out all of the blocked paragraph (page 1, lines 17 to 25 in L.D.) and inserting in its place the following:

'Notwithstanding section 4061, subsection 3, any federally recognized Indian tribe in this State or any Indian foster family home is eligible for benefits and reimbursement under any state or federally funded program administered by the State for the benefit of Maine children, including, but not limited to, children within the jurisdiction of the Passamaquoddy Tribe or Penobscot Indian Nation under the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq.

Further amend the bill by inserting after section 1 the following:

'Sec. 2. 22 MRSA §7801, sub-§1, as amended by PL 1995, c. 670, Pt. B, §5 and affected by Pt. D, §5, is further amended to read:

1. License required. Except as provided in subsection 3 or section 7805, no a person, firm, corporation or association may not operate any of the following without having, subject to this subtitle Subtitle and to the rules promulgated adopted by the department under this subtitle Subtitle, a written license therefer from the department:

COMMITTEE AMENDMENT

H. 418

COMMITTEE AMENDMENT "A" to H.P. 392, L.D. 523

2 A. A residential care facility;

4 A-1. In accordance with subparagraphs (1) and (2), a  
6 congregate housing services program either directly or by  
8 contract providing to its residents any of the following  
services: personal care assistance, the administration of  
medication or nursing services.

10 (1) A congregate housing services program may directly  
12 provide to its residents meals, housekeeping and chore  
14 assistance, case management and personal care  
assistance delivered on the site of congregate housing  
without obtaining a separate license to do so.

16 (2) A congregate housing services program licensee may  
18 hold at any one time only one license under section  
20 7901-B, subsection 2. A qualified congregate housing  
22 services program may obtain a license for a different  
category under section 7901-B, subsection 2, upon  
application and surrender of the previous license;

24 B. A drug treatment center;

26 C. A children's home;

28 D. A child placing agency;

30 E. A day care facility;

32 F. A nursery school; or

34 G. An adult day care program.

36 **Sec. 3. 22 MRSA §7805**, as enacted by PL 1975, c. 719, §6, is  
repealed and the following enacted in its place:

38 **§7805. Tribally licensed facilities**

40 With respect to the placement care and funding of care of  
42 any Indian child as defined in the Indian Child Welfare Act, 25  
44 United States Code, Section 1901, et seq., this Subtitle does not  
46 apply to any Indian foster family home, adoptive home or other  
facility licensed by a federally recognized Indian tribe in this  
State pursuant to that Act.'

48 Further amend the bill in section 2 in subsection 3 in the  
2nd line (page 1, line 31 in L.D.) by striking out the  
following: "including an Indian family foster home" and  
50 inserting in its place the following: 'other than an Indian  
foster family home'

**COMMITTEE AMENDMENT**

2 Further amend the bill in section 3 by striking out all of  
3 subsection 3-A (page 2, lines 9 to 12 in L.D.) and inserting in  
4 its place the following:

6 '3-A. Indian foster family home. "Indian foster family  
7 home" means a foster home licensed, approved or specified by the  
8 Indian child's tribe where substitute parental care is provided  
9 for an Indian child as defined in the Indian Child Welfare Act,  
10 25 United States Code, Section 1901, et seq.'

12 Further amend the bill by relettering or renumbering any  
13 nonconsecutive Part letter or section number to read  
14 consecutively.

### 16 SUMMARY

18 This amendment corrects Maine's foster care licensing and  
19 funding statutes to recognize the authority of the Maine Indian  
20 tribes under the federal Indian Child Welfare Act. Application  
21 of the Indian Child Welfare Act in Maine was incorporated in the  
22 Act to Implement the Maine Indian claims Settlement in 1980, but  
23 corresponding amendments to state law were not made.

26 Under existing federal and state laws, Maine Indian tribes  
27 may license and approve foster homes for Indian children, and  
28 tribal licensing "shall be deemed equivalent to licensing  
29 approval by the State." Section 1 of this amendment makes clear  
30 that Indian children in the custody of Maine Indian tribes under  
31 the Indian Child Welfare Act are fully eligible, as Maine  
32 children, for all state and federally funded foster care programs  
33 administered by the State. The remaining sections of the  
34 amendment recognize Indian foster family homes licensed or  
35 approved under the Indian Child Welfare Act as an exception to  
36 the general requirement of state licensing for foster care  
placements and funding when Indian children are involved.