

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 523

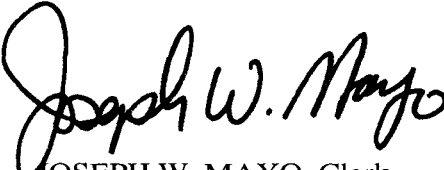
H.P. 392

House of Representatives, January 19, 1999

**An Act to Implement Recommendations of the Maine Indian Tribal-State
Commission Relating to Child Welfare Services for Indian Children.**

Reported by Representative THOMPSON for the Maine Indian Tribal-State Commission pursuant to Resolve 1997, chapter 45, section 3.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

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

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Sec. 1. 22 MRSA §4062, sub-§1, as amended by PL 1985, c. 521, is further amended to read:

1. Payments by department. The department shall provide payments to facilities caring for children to meet the costs of clothing, board and care, within the limits of available funds. The department may establish, by rule, different categories of facilities, levels of need and care and flat-rate or reimbursement methods to distribute these funds. The department may provide child care and travel expense payments to foster and adoptive parents and trainers participating in foster and adoptive parent training programs and volunteers participating in the administrative case review program.

Any federally recognized Indian tribe in this State or any other person or facility providing foster care for a child who is a member, or eligible to be a member of any of those tribes is eligible for benefits and reimbursement under any state or federally funded program administered by the State for the benefit of Maine children, including without limitation for the benefit of children within the jurisdiction of the Passamaquoddy Tribe or Penobscot Nation under the Indian Child Welfare Act, 25 United States Code, Section 1901, et seq.

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, including an Indian family foster 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. 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 may 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

2 liability limit shall ~~shall~~ must be automatically abated by operation
of this section to the maximum limit of liability. Nothing in
4 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.

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8 **Sec. 3. 22 MRSA §8101, sub-§3-A is enacted to read:**

10 3-A. Indian family foster home. "Indian family foster
home" means a family foster home where substitute parental care
12 is provided for an Indian child, as defined in the Indian Child
Welfare Act, 25 United States Code, Section 1901, et seq.

14
16 **SUMMARY**

18 This bill ensures that Indian children placed in foster
homes are eligible for benefits and reimbursement available under
any state or federally funded program administered for the
20 benefit of Maine children.