

# MAINE STATE LEGISLATURE

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HEALTH AND HUMAN SERVICES

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

COMMITTEE AMENDMENT "A" to H.P. 527, L.D. 734, Bill, "An Act to Strengthen the Child Care Licensing Laws"

Amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 22 MRSA §3296, as enacted by PL 1989, c. 502, Pt. A, §73, is amended to read:

§3296. Penalty for violations

Any person who violates this chapter shall-be is subject to the applicable penalty as provided in chapters 958-A and 1071 and section-7702.

Sec. 2. 22 MRSA §7702, as amended by PL 1997, c. 494, §6 and affected by §15, is repealed.

Sec. 3. 22 MRSA §7702-A is enacted to read:

§7702-A. Violations; penalties

1. Criminal penalties. Except as otherwise provided by law, a person who violates any provision of this subtitle commits a Class E crime.

2. Civil penalties. A person who violates section 7703 or 8603 or rules adopted pursuant to those sections commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. A person who violates rules governing child-to-staff

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2 ratios adopted under section 8302-A, subsection 1, paragraph A or  
3 subsection 2, paragraph G commits a civil violation for which a  
4 forfeiture not to exceed \$500 per incident or \$500 per number of  
5 children above the limitation set by rule, or both, may be  
6 adjudged.

7 3. Licensure provisions. A person who violates the  
8 following sections or rules adopted pursuant to those sections is  
9 subject to the sanctions provided for under the rules of  
10 licensure applicable to the facility, day care center or home day  
11 care provider:

12 A. Section 7801, subsection 1, paragraph A;

13 B. Section 8301-A; or

14 C. Section 8302-A, subsection 1, paragraphs B to I and  
15 subsection 2, paragraphs A to F and H to J.

16 4. Dedicated funds. Fines and forfeitures adjudged under  
17 this section are payable to the Purchased Social Services Other  
18 Special Revenue account.'

19 Further amend the bill by striking out all of section 2 and  
20 inserting in its place the following:

21 'Sec. 2. 22 MRSA §8301-A, sub-§§5, 6, 7 and 8 are enacted to  
22 read:

23 5. Administrative suspension. Whenever conditions exist  
24 that immediately jeopardize the health and safety of children,  
25 the commissioner may issue an order of closure, which suspends  
26 the certification of the home day care provider or the day care  
27 center license for up to 10 days, pending further investigation  
28 or prior to obtaining an order of emergency suspension from the  
29 court. The department shall require that an order of closure be  
30 posted at the facility and made public as it determines to be  
31 most appropriate for parents and other potential customers.

32 6. Temporary license. Whenever a certified home day care  
33 provider or licensed day care center moves to a new location the  
34 department may issue a temporary license, valid pending final  
35 action on the application for the new location by the department,  
36 when:

37 A. All applicable standards have been met except a  
38 requirement that is dependent on the action of an agency of  
39 state government or a contractor of that agency; and

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B. Through no action by the applicant that causes a significant delay, timely issuance of a provisional or full license has been delayed by the agency or contractor.

7. Injunctive relief. The department may seek an injunction to require compliance with the provisions of this section or rules adopted pursuant to this section.

8. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.'

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

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

This bill may increase prosecutions for Class E crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$82.48 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

In addition to the criminal cases, this bill also may increase the number of civil violations filed in the court system. The additional workload and administrative costs associated with the minimal number of new civil and criminal cases filed can be absorbed within the budgeted resources of the Judicial Department.

This bill also dedicates certain fines and forfeitures, increasing dedicated revenue to the Purchased Social Services Other Special Revenue account and decreasing General Fund revenue. The amount of the loss of General Fund revenue is minor. The amount of the increase in dedicated revenue is also not expected to be significant. The Judicial Department will incur some minor additional costs to dedicate these fines and forfeitures. These costs can be absorbed within the department's existing budgeted resources.

The Department of Human Services will incur some minor additional costs to enforce the provisions of this bill. These

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2 costs can be absorbed within the Department of Human Services'  
existing budgeted resources.

4 The Department of the Attorney General also will incur  
6 additional costs to enforce the provisions of this bill. The  
8 Department of the Attorney General assumes that the additional  
enforcement activities associated with the change will be minimal  
and the costs associated with these activities can be absorbed  
with the department's existing budgeted resources.'

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### SUMMARY

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16 This amendment clarifies the language on fines in the bill.  
It adds a provision that penalties be paid into the existing  
18 Purchased Social Services Other Special Revenue account. It  
requires the Department of Human Services to adopt rules  
regarding the licensure of home day care providers and day care  
20 centers. It also adds a fiscal note to the bill.

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