

# MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1672, L.D. 2174, "Resolve, Authorizing Michelle Booker to Sue the State"

Amend the resolve by striking out everything after the title and before the summary and inserting in its place the following:

'Sec. 1. Authorization to sue State. Resolved: That, notwithstanding any statute or common law to the contrary, Michelle Booker, personal representative of the estate of Donna Leen, who claims to have suffered damages as a result of the alleged murder of Donna Leen on October 13, 2001, in Bangor, by Carl Wayne Heath, an individual Michelle Booker contends was wrongfully released from criminal custody by the Department of Corrections days earlier, is authorized to bring an action for damages against the Department of Corrections, but not against individual past or present employees of the Department of Corrections. This resolve is a waiver of the State's defense of immunity under the Maine Revised Statutes, Title 14, chapter 741.

This action must be brought in the Penobscot County Superior Court within one year from the date all criminal charges against Carl Wayne Health in connection with the death of Donna Leen have been finally adjudicated, including appeals. In all other respects, this action must be brought in accordance with the Maine Revised Statutes, Title 18-A, section 2-804. Liability and damages, including punitive damages, must be determined according to state law as in litigation between individuals. The 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.

COMMITTEE AMENDMENT

2 The Treasurer of State shall pay any judgment, including  
costs and interest, on final process issued by the Superior Court  
or, if applicable, the Supreme Judicial Court.'

4  
6 Further amend the resolve by inserting at the end before the  
summary the following:

8  
10 **FISCAL NOTE**

12 This resolve allows the State to be sued. If the plaintiff  
is successful, a General Fund appropriation for the recovery will  
be necessary. It is not clear if all of the State's liability is  
14 subject to any monetary cap. In addition to the plaintiff's  
award, an additional General Fund appropriation will be required  
16 by the Department of the Attorney General to defend the claim,  
including funds for expert assistance. The amount and timing of  
18 the appropriations will depend on when the suit is filed and its  
outcome.

20 The Judicial Department can absorb the additional workload  
22 and administrative costs associated with this individual case  
within its existing resources. An additional filing fee will  
24 increase General Fund revenue by a minor amount.'

26  
28 **SUMMARY**

30 This amendment replaces the resolve. It authorizes Michelle  
Booker, in her capacity as personal representative of the estate  
of Donna Leen, to sue the Department of Corrections. Monetary  
32 recovery is limited to the amounts authorized under the Maine  
Revised Statutes, Title 18-A, section 2-804.

34 The amendment also adds a fiscal note to the resolve.  
36