

MAINE STATE LEGISLATURE

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L.D. 730

DATE: 5-13-03

(Filing No. H-356)

MAJORITY
LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 536, L.D. 730, "Resolve, Allowing Christy Reposa and Michaela Corbin-Bumford to Sue the State"

Amend the resolve by striking out the title and substituting the following:

'Resolve, Allowing Christy Reposa and John Wagg To Sue the State'

Further 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, Christy Reposa and John Wagg, the parents of Logan Marr, or their legal representative, who claim to have suffered damages as a result of the death of Logan Marr while she was in the custody of the Department of Human Services, are authorized to bring a civil action for damages against the Department of Human Services, but not against a past or present employee of the Department of Human Services. This resolve is a waiver of the State's defense of immunity under the Maine Revised Statutes, Title 14, chapter 741.

This action may be brought in the Kennebec County Superior Court within one year from the date this resolve is approved. In all other respects, this action must be brought in accordance

COMMITTEE AMENDMENT

with Title 18-A, section 2-804. The 180-day notice requirement set forth in Title 14, section 8107 is waived. 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.

The Treasurer of State shall pay any judgment, including costs and interest, on final process issued by Superior Court or, if applicable, the Supreme Judicial Court. Recovery may not exceed \$400,000, including costs, interest and punitive damages.'

SUMMARY

This amendment replaces the resolve. The amendment authorizes Christy Reposa and John Wagg, the parents of Logan Marr, to sue the State under the State's wrongful death laws. The amendment clarifies that the resolve authorizes suit against the Department of Human Services and constitutes a waiver of the State's defense of immunity under the Maine Tort Claims Act. The amendment also clarifies that the maximum amount of recovery is \$400,000, including costs, interest and punitive damages.

FISCAL NOTE REQUIRED
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**



LD 730

**Resolve, Allowing Christy Reposa and Michaela Corbin-Bumford to Sue
the State**

LR 1457(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Legal and Veterans Affairs

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium cost increase - General Fund

Fiscal Detail and Notes

This Resolve allows the State to be sued up to a maximum amount of \$400,000 including costs and interest. If the plaintiff is successful, a General Fund appropriation for the recovery will be necessary. The amount and timing of the appropriation will depend on whether the suit is filed and its outcome. The Department of the Attorney General and the Department of Human Services can absorb the additional costs of defending this claim within existing resources. The Judicial Department can absorb the workload and administrative costs associated with this individual case within its existing resources. An additional filing fee will increase General Fund revenue by a minor amount.