

# MAINE STATE LEGISLATURE

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DATE: 1-23-04

(Filing No. S-360)

LEGAL AND VETERANS AFFAIRS

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 567, L.D. 1613, "Resolve, Authorizing Germaine Bell 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, Germaine Bell, who claims to have suffered damages in connection with services she received from the Department of Human Services, is authorized to bring a civil action against 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.

Notwithstanding the application of any statute of limitations barring this action, this action must be brought in the Kennebec County Superior Court within one year from the date this resolve is approved. Liability and damages, including punitive damages, must be determined according to state law as in litigation between individuals. This 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. To the extent possible, the Attorney General shall conduct negotiations in good faith to resolve this action by settlement.

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

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COMMITTEE AMENDMENT "A" to S.P. 567, L.D. 1613

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**SUMMARY**

This amendment is the majority report of the committee and replaces the resolve. The amendment clarifies that the resolve authorizes a suit against the Department of Human Services and constitutes a waiver of the State's defense of sovereign immunity. The amendment also clarifies that the maximum amount of any recovery is \$400,000, pursuant to the limits of the Maine Tort Claims Act. The amendment directs the Attorney General and the Department of Human Services to conduct settlement negotiations to resolve the dispute to the extent possible.

FISCAL NOTE REQUIRED  
(See attached)

**COMMITTEE AMENDMENT**

Approved: 01/14/04 *MAC*

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

**LD 1613**

**Resolve, Authorizing Germaine Bell To Sue the State**



**LR 2086(03)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Legal and Veterans Affairs**

**Fiscal Note Required: Yes**

**Majority Report**

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**Fiscal Note**

Undetermined 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 by Germaine Bell for damages in connection with services received from the Department of Human Services. 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 when 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 additional 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.