

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1334

S.P. 411

In Senate, March 29, 2011

An Act To Require the Department of Health and Human Services To License Families To Provide Care for Children in Foster Care

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator CRAVEN of Androscoggin.
Cosponsored by Representative EVES of North Berwick and
Representatives: FOSSEL of Alna, MALABY of Hancock, PETERSON of Rumford,
SANBORN of Gorham, STRANG BURGESS of Cumberland.

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

2 **Sec. 1. 22 MRSA §8101, sub-§3**, as amended by PL 1999, c. 392, §4 and PL
3 2003, c. 689, Pt. B, §6, is further amended to read:

4 **3. Family foster home.** "Family foster home" means a children's home, other than
5 an Indian foster family home, that is a private dwelling where substitute parental care is
6 provided within a family on a regular, 24-hour a day, residential basis. The total number
7 of children in care may not exceed 6, including the family's legal children under 16 years
8 of age, with no more than 2 of these children under the age of 2. "Family foster home"
9 includes the home of a resource family whether the family provides foster care, kinship
10 care, adoption or permanency guardianship services, as long as the home meets the
11 requirements and standards for adoption of children in foster care. Family foster homes
12 licensed by the Department of Health and Human Services or relatives' homes approved
13 by the Department of Health and Human Services as meeting licensing standards are
14 eligible for insurance pursuant to Title 5, section 1728-A. In any action for damages
15 against a family foster home provider insured pursuant to Title 5, section 1728-A, for
16 damages covered under that policy, the claim for and award of those damages, including
17 costs and interest, may not exceed \$300,000 for any and all claims arising out of a single
18 occurrence. When the amount awarded to or settled for multiple claimants exceeds the
19 limit imposed by this section, any party may apply to the Superior Court for the county in
20 which the governmental entity is located to allocate to each claimant that claimant's
21 equitable share of the total, limited as required by this section. Any award by the court in
22 excess of the maximum liability limit must be automatically abated by operation of this
23 section to the maximum limit of liability. Nothing in this subsection may be deemed to
24 make the operation of a family foster home a state activity nor may it expand in any way
25 the liability of the State or foster parent.

26 **SUMMARY**

27 This bill requires the Department of Health and Human Services to issue a license to
28 a resource family whether the family provides a foster child with foster care, kinship care,
29 adoption or permanency guardianship as long as the family meets the requirements and
30 standards for adoption of children in foster care. Current law does not allow the
31 department to license a preadoptive home. The bill gives the department that authority
32 and puts the department in compliance with Title IV-E of the United States Social
33 Security Act.