



*Senator Heather Sanborn
3 State House Station
Augusta, ME 04333-0003
(207)287-1515*

Introducing LD 794, “An Act To Maintain Maine's System of Therapeutic Foster Care for Children through the Creation of a Nonprofit Risk Indemnification Trust”

Joint Standing Committee on Health Coverage, Insurance and Financial Services

May 5, 2021

Representative Tepler and colleagues of the Health Coverage, Insurance and Financial Services Committee, I am Senator Heather Sanborn and I represent Senate District 28 which is part of Portland and part of Westbrook. I’m here today to present LD 794, “An Act To Maintain Maine's System of Therapeutic Foster Care for Children through the Creation of a Nonprofit Risk Indemnification Trust.”

Therapeutic foster care is focused on the care of children with developmental, emotional, and/or medical disabilities who are in State custody. Families that provide this level of care are trained by the Office of Child and Family Services (OCFS) to be Licensed Resource Parents.

Beginning in the fall of 2020, agencies who were contracted by OCFS to provide the training and support for Therapeutic Foster families began to receive renewal statements for their company liability insurance. Noted on these statements was the fact that they were being increased, across the each of the agencies, by double and triple amounts, tied directly to their operation of therapeutic foster care programs.

The dramatic increase in rates appears to be due in part to new “look-back window” laws enacted in many states throughout the country that seek to give adult victims of childhood sexual abuse a stronger voice and an opportunity to file civil claims against alleged abusers and enabling institutions by eliminating the statute of limitations. In an understandable business response, insurance companies have responded by recalculating the risks involved in covering therapeutic foster care programs. Those insurers may be looking toward changes in coverage options for other services as well. If liability insurance becomes unavailable to these agencies, they may be forced to end their therapeutic foster care programs, leaving a gap in our state’s ability to provide services for the most vulnerable children under its care.

The concept draft anticipates drafting a resolve, directing the Bureau of Insurance and the Department of Health and Human Services to develop a state nonprofit risk indemnification trust to serve as a backstop insurer of last resort to provide liability insurance coverage for state-

contracted providers of therapeutic foster care that are unable to obtain affordable liability coverage through ordinary means.

However, I believe that additional stakeholder process and discussions would be beneficial before we jump to the insurer of last resort option. So I would propose that this committee carry over the bill, and draft a letter asking the Bureau of Insurance to convene a working group of interested stakeholders – including therapeutic foster care providers, the OCFS, commercial insurers, and others as needed – to evaluate the extent of the problem and participate in crafting a suggested course of action. I suggest that our letter request that the working group bring its recommendations back to this committee by January 1, 2022 to be reviewed.

Thank you for your time, and I would be happy to try and answer any questions you have.