

Senate Bill No. 522

CHAPTER 494

An act to amend Sections 1527, 1527.3, and 1527.4 of, and to add Section 1527.35 to, the Health and Safety Code, relating to foster children.

[Approved by Governor October 2, 2013. Filed with
Secretary of State October 2, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 522, Hueso. Foster Family Home and Small Family Home Insurance Fund.

Existing law establishes within the State Department of Social Services the Foster Family Home and Small Family Home Insurance Fund for the purposes of paying, on behalf of foster family homes and small family homes, as defined, claims of foster children, their parents, guardians, or guardians ad litem resulting from occurrences peculiar to the foster care relationship and the provision of foster care services. Under existing law, the fund is not liable for any loss arising out of a dishonest, fraudulent, criminal, or intentional act of any person, or for damages of more than \$300,000 for any single foster family home or small family home for all claims arising due to one or more occurrences during a single calendar year.

This bill would narrow that limitation on the liability of the fund to exclude only a loss arising out of a dishonest, fraudulent, criminal, or intentional act of a foster parent, except as specified. The bill would also limit the liability of the fund to damages of no more than \$300,000 for any single home for all claims arising during a consecutive 12-month period, instead of during a single calendar year. The bill would require that multiple incidents of a general course of conduct be considered one occurrence, regardless of the period of time during which the acts transpired, and would provide that the fund shall be liable only once for damages arising from that one occurrence.

The people of the State of California do enact as follows:

SECTION 1. Section 1527 of the Health and Safety Code is amended to read:

1527. As used in this article:

(a) "Aircraft" includes, but is not limited to, any airplane, glider, or hot air balloon.

(b) "Bodily injury" means any bodily injury, sickness, or disease sustained by any person including death at any time resulting therefrom.

(c) “Foster child” means a person under 19 years of age who has been placed in the care and supervision of licensed foster parents.

(d) “Foster parent” means the person, and including his or her spouse if the spouse is a resident of the same household, providing care, custody, and control of a foster child in a licensed foster family home or licensed small family home, as defined in Section 1502 of the Health and Safety Code.

(e) “Occurrence” means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or personal injury neither expected nor intended by the foster parent. Multiple incidents of a general course of conduct shall be considered one occurrence, regardless of the period of time during which the acts transpired.

(f) “Motor vehicle” means an automobile, motorcycle, moped, midget automobile, including the type commonly referred to as a kart, go-kart, speedmobile, or by a comparable name whether commercially built or otherwise, trailer or semitrailer designed for travel on public roads, including any machinery or apparatus attached thereto, or snowmobile.

(g) “Personal injury” means any injury to the feelings or reputation of any person or organization arising out of libel, slander, defamation, or disparagement, wrongful eviction, or entry.

(h) “Property damage” means any physical injury to, or destruction of, tangible property, including the loss of use thereof at any time resulting therefrom.

(i) “Watercraft” includes, but is not limited to, any boat, ship, raft, or canoe, whether motorized or not.

SEC. 2. Section 1527.3 of the Health and Safety Code is amended to read:

1527.3. The fund shall not be liable for any of the following:

(a) Any loss arising out of a dishonest, fraudulent, criminal, or intentional act of a foster parent.

(b) Any occurrence that does not arise from the foster-care relationship.

(c) Any bodily injury arising out of the operation or use of any motor vehicle, aircraft, or watercraft owned or operated by, or rented or loaned to, any foster parent.

(d) Any loss arising out of licentious, immoral, or sexual behavior on the part of a foster parent intended to lead to, or culminating in, any sexual act.

(e) Any allegation of alienation of affection against a foster parent.

(f) Any loss or damage arising out of occurrences prior to October 1, 1986.

(g) Exemplary damages.

(h) Any liability of a foster parent that is uninsured due solely to the foster parent’s failure to obtain insurance specified in Section 676.7 of the Insurance Code. Nothing in this subdivision shall be construed to expand the liability of the fund with respect to insured foster parents.

SEC. 3. Section 1527.35 is added to the Health and Safety Code, immediately following Section 1527.3, to read:

1527.35. The fund shall not be liable for any loss arising out of the dishonest, fraudulent, criminal, or intentional act of any person if the date of the loss is prior to July 1, 2013.

SEC. 4. Section 1527.4 of the Health and Safety Code is amended to read:

1527.4. Notwithstanding any other provision of this article, the fund shall not be liable for damages in excess of three hundred thousand dollars (\$300,000) for any single foster family home or small family home for all claims arising due to one or more occurrences during any consecutive 12-month period. The fund shall be liable only once for damages arising from one occurrence.