

SENATE FILE 2107  
BY VANDE HOEF and BRUNER

Passed Senate, Date 3/9/88 (p. 100) Passed House, Date 4/14/88 (p. 1905)  
Vote: Ayes 43 Nays 1 Vote: Ayes 95 Nays 0  
Approved May 12, 1988

A BILL FOR

1 An Act relating to the creation of a foster home insurance fund.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2107

1 Section 1. NEW SECTION. 237.13 FOSTER HOME INSURANCE  
2 FUND.

3 1. For the purposes of this section, "foster home" means a  
4 facility or single-family home in which child foster care is  
5 provided by an agency or individual.

6 2. The foster home insurance fund is created within the  
7 department of human services. The fund consists of all moneys  
8 appropriated by the general assembly for deposit in the fund.  
9 The department may contract with another state agency to  
10 establish and operate the fund and perform the administrative  
11 functions necessary to carry out this section.

12 3. Except as provided in subsection 4, the fund shall pay,  
13 on behalf of foster homes, any valid and approved claim of  
14 foster children, their parents, guardians, or guardians ad  
15 litem for damages, arising from the foster care relationship  
16 and the provision of foster care services, or shall reimburse  
17 foster homes for those damages.

18 4. The fund is not liable for any of the following:

19 a. A loss arising out of a dishonest, fraudulent,  
20 criminal, or intentional act.

21 b. An occurrence which does not arise from the foster-care  
22 relationship.

23 c. A bodily injury arising out of the operation or use of  
24 a motor vehicle, aircraft, or watercraft owned or operated by,  
25 or rented or loaned to, a foster parent.

26 d. A loss arising out of lascivious acts or sexual  
27 behavior pursuant to chapter 709 on the part of a foster  
28 parent intended to lead to, or culminating in, a sexual act.

29 e. An allegation of alienation of affection against a  
30 foster parent.

31 f. A loss or damages arising out of occurrences prior to  
32 July 1, 1988.

33 g. Exemplary damages.

34 h. A liability of a foster parent due solely to the foster  
35 parent's failure to obtain insurance. This section does not

1 expand the liability of the fund with respect to insured  
2 foster parents.

3 5. The fund is not liable for damages in excess of three  
4 hundred thousand dollars for a single foster home for all  
5 claims arising due to one or more occurrences during a single  
6 calendar year.

7 6. The fund is liable, if a claim is approved, to pay on  
8 behalf of each licensed foster home, all sums which the foster  
9 home is obligated to pay as a result of a valid claim of  
10 bodily injury arising out of the activities of a foster home  
11 which occurs while the foster child resides in the foster  
12 home. Claims specified in this section are the sole  
13 responsibility of the fund, and are not the responsibility of  
14 the state, any state agency, or any other moneys of the state.

15 7. Procedures for claims against the fund:

16 a. A claim against the fund shall be filed with the fund  
17 in accordance with the claims procedures and on forms  
18 prescribed by the department of human services or its  
19 designated contract agency.

20 b. A claim against the fund filed by a foster parent or a  
21 third party shall be submitted to the fund within the  
22 applicable period of limitations for the appropriate civil  
23 action underlying the claim. If a claim is not submitted to  
24 the fund within the applicable time, there shall be no  
25 recourse against the fund.

26 c. The department or the department's designated contract  
27 agency shall approve or reject a claim within one hundred  
28 eighty days of the claim's presentation.

29 d. A person shall not bring a civil action against a  
30 foster parent for which the fund is liable unless that person  
31 has first filed a claim against the fund and the claim has  
32 been rejected, or the claim has been filed, approved, and paid  
33 in whole or in part, and damages in excess of the payment are  
34 claimed.

35 8. All processing of decisions and reports. payment of

1 claims, and other administrative actions relating to the fund  
2 shall be conducted by the department of human services or its  
3 designated contract agency.

4 9. All foster parents and other members of the foster home  
5 shall be immune from any civil action based upon any claims  
6 which are covered by the foster home insurance fund, and from  
7 any claims not covered by the fund solely because of the  
8 maximum claim limitation set forth in subsection 5.

9 10. The department of human services shall adopt rules,  
10 pursuant to chapter 17A, to carry out the provisions of this  
11 section.

12 EXPLANATION

13 This bill creates a foster home insurance fund to be  
14 administered by the department of human services or the  
15 department's designee. The fund may be used for claims filed  
16 by foster children, their parents, guardians, or guardians ad  
17 litem for damages arising out of the foster care relationship  
18 and the provision of foster care. The bill provides  
19 exceptions to coverage by the fund, a limit of three hundred  
20 thousand dollars of liability coverage for a single foster  
21 home during a single calendar year, certain immunity for  
22 claims covered by the fund, and procedures for the filing of  
23 claims.

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SENATE FILE 2107

S-5143

1 Amend Senate File 2107 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 237.13 FOSTER HOME  
5 INSURANCE FUND.

6 1. For the purposes of this section, "foster home"  
7 means a licensed foster home in which child foster  
8 care is provided by an agency, a guardian appointed on  
9 a voluntary petition of a ward pursuant to section  
10 633.557, or a conservator appointed on a voluntary  
11 petition of a ward pursuant to section 633.572.

12 2. The foster home insurance fund is created  
13 within the office of the treasurer of state to be  
14 administered by the department of human services. The  
15 fund consists of all moneys appropriated by the  
16 general assembly for deposit in the fund. The general  
17 fund of the state is not liable for claims presented  
18 against the fund. The department may contract with  
19 another state agency, or private organization, to  
20 perform the administrative functions necessary to  
21 carry out this section.

22 3. Except as provided in this section, the fund  
23 shall pay, on behalf of each licensed foster home, any  
24 valid and approved claim of foster children, their  
25 parents, guardians, or guardians ad litem, for damages  
26 arising from the foster care relationship and the  
27 provision of foster care services. The fund shall  
28 also reimburse foster homes for property damage or  
29 bodily injury, as a result of the activities of the  
30 foster child, and reasonable and necessary legal fees  
31 incurred in defense of civil claims filed pursuant to  
32 subsection 6, paragraph "d", and any judgments awarded  
33 as a result of such claims.

34 4. The fund is not liable for any of the  
35 following:

36 a. A loss arising out of a foster parent's  
37 dishonest, fraudulent, criminal, or intentional act.

38 b. An occurrence which does not arise from the  
39 foster care relationship.

40 c. A bodily injury arising out of the operation or  
41 use of a motor vehicle, aircraft, or watercraft owned,  
42 operated by, rented, leased, or loaned to, a foster  
43 parent.

44 d. A loss arising out of a foster parent's  
45 lascivious acts, indecent contact, or sexual activity,  
46 as defined in chapters 702 and 709. Notwithstanding  
47 any definition to the contrary in chapters 702 and  
48 709, for purposes of this subsection a child is a  
49 person under the age of eighteen.

50 e. A loss or damage arising out of occurrences

S-5143 Page 2

1 prior to July 1, 1988.

2 f. Exemplary or punitive damages.

3 g. Any claim for which compensation has been  
4 provided by, or is available from, any other source.

5 h. The liability of a foster parent due solely to  
6 the foster parent's failure to obtain automobile or  
7 homeowner's insurance.

8 i. A loss or damage arising out of conduct which  
9 is in violation of administrative rules.

10 5. The fund is not liable for the first one  
11 hundred fifty dollars of any claim based on a single  
12 occurrence. Claims may not be aggregated or  
13 accumulated to avoid payment of this deductible.

14 6. Procedures for claims against the fund:

15 a. A claim against the fund shall be filed in  
16 accordance with the claims procedures and on forms  
17 prescribed by the department of human services.

18 b. A claim shall be submitted to the fund within  
19 the applicable period of limitations for the  
20 appropriate civil action underlying the claim. If a  
21 claim is not submitted to the fund within the  
22 applicable time, the claim shall be rejected.

23 c. The department shall approve or reject a claim  
24 within one hundred eighty days of its presentation.

25 d. A person shall not bring a civil action against  
26 a foster parent for which the fund may be liable  
27 unless that person has first filed a claim against the  
28 fund and the claim has been rejected, or the claim has  
29 been filed, approved, and paid in part, and damages in  
30 excess of the payment are claimed.

31 7. All processing of decisions and reports,  
32 payment of claims, and other administrative actions  
33 relating to the fund shall be conducted by the  
34 department of human services.

35 8. The department of human services shall adopt  
36 rules, pursuant to chapter 17A, to carry out the  
37 provisions of this section."

S-5143  
Filed February 25, 1988

*Adopted 2/17/88*

BY COMMITTEE ON HUMAN RESOURCES  
BEVERLY A. HANNON, Chairperson

FILED MAR 8 1988

STATE OF IOWA

**FISCAL NOTE**

LSB No. 8127S  
Staff ID. JMN

BY SENATOR VANDE HOEF SENATE FILE 2107

In compliance with a written request received February 25, 1988, a fiscal note for Senate File 2107 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2107 creates a foster home insurance fund to be administered by the Department of Human Services. The fund may be used for claims filed by foster children, their parents or guardians for damages arising out of the foster care relationship and the provision of foster care. The bill provides exceptions to coverage by the fund, a limit of \$300,000 of liability coverage for a single foster home during a single calendar year, certain immunity for claims covered by the fund, and procedures for the filing of claims.

Based upon information on average cost per child from four states that have similar insurance funds, it is estimated that the total cost of implementing Senate File 2107 to be \$163,350. This includes \$13,350 for administration and \$150,000 for the insurance fund. If Iowa's claims experience is significantly different from the states on which the average cost per child was based, the funding may need to be adjusted.

Source: Department of Human Services

(LSB 8127S, JMN)

  
Fiscal Director

Legislative Fiscal Bureau

Date: 3/7/88

*The Judiciary 5/11*

SENATE FILE 2107  
BY VANDE HOEF and BRUNER

(AS AMENDED AND PASSED BY THE SENATE MARCH 9, 1988)  
ALL New Language by the Senate

*Re* Passed Senate, Date 4/14/88 (p. 1587) Passed House, Date 4/14/88 (p. 1905)  
Vote: Ayes 45 Nays 2 Vote: Ayes 95 Nays 0  
Approved May 12, 1988  
*Rej. amend. Hanner 4/15/88 (p. 2003)*  
90-0

**A BILL FOR**

2411 An Act relating to the creation of a foster home insurance fund.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 237.13 FOSTER HOME INSURANCE  
2 FUND.

3 1. For the purposes of this section, "foster home" means a  
4 licensed foster home in which child foster care is provided by  
5 an agency, a guardian appointed on a voluntary petition of a  
6 ward pursuant to section 633.557, or a conservator appointed  
7 on a voluntary petition of a ward pursuant to section 633.572.

8 2. The foster home insurance fund is created within the  
9 office of the treasurer of state to be administered by the  
10 department of human services. The fund consists of all moneys  
11 appropriated by the general assembly for deposit in the fund.  
12 The general fund of the state is not liable for claims  
13 presented against the fund. The department may contract with  
14 another state agency, or private organization, to perform the  
15 administrative functions necessary to carry out this section.

16 3. Except as provided in this section, the fund shall pay,  
17 on behalf of each licensed foster home, any valid and approved  
18 claim of foster children, their parents, guardians, or  
19 guardians ad litem, for damages arising from the foster care  
20 relationship and the provision of foster care services. The  
21 fund shall also reimburse foster homes for property damage or  
22 bodily injury, as a result of the activities of the foster  
23 child, and reasonable and necessary legal fees incurred in  
24 defense of civil claims filed pursuant to subsection 6,  
25 paragraph "d", and any judgments awarded as a result of such  
26 claims.

27 4. The fund is not liable for any of the following:

28 a. A loss arising out of a foster parent's dishonest,  
29 fraudulent, criminal, or intentional act.

30 b. An occurrence which does not arise from the foster care  
31 relationship.

32 c. A bodily injury arising out of the operation or use of  
33 a motor vehicle, aircraft, or watercraft owned, operated by,  
34 rented, leased, or loaned to, a foster parent.

35 d. A loss arising out of a foster parent's lascivious

1 acts, indecent contact, or sexual activity, as defined in  
2 chapters 702 and 709. Notwithstanding any definition to the  
3 contrary in chapters 702 and 709, for purposes of this  
4 subsection a child is a person under the age of eighteen.

5 e. A loss or damage arising out of occurrences prior to  
6 July 1, 1988.

7 f. Exemplary or punitive damages.

8 g. Any claim for which compensation has been provided by,  
9 or is available from, any other source.

10 h. The liability of a foster parent due solely to the  
11 foster parent's failure to obtain automobile or homeowner's  
12 insurance.

13 i. A loss or damage arising out of conduct which is in  
14 violation of administrative rules.

15 5. The fund is not liable for the first one hundred fifty  
16 dollars of any claim based on a single occurrence. Claims may  
17 not be aggregated or accumulated to avoid payment of this  
18 deductible.

19 6. Procedures for claims against the fund:

20 a. A claim against the fund shall be filed in accordance  
21 with the claims procedures and on forms prescribed by the  
22 department of human services.

23 b. A claim shall be submitted to the fund within the  
24 applicable period of limitations for the appropriate civil  
25 action underlying the claim. If a claim is not submitted to  
26 the fund within the applicable time, the claim shall be  
27 rejected.

28 c. The department shall approve or reject a claim within  
29 one hundred eighty days of its presentation.

30 d. A person shall not bring a civil action against a  
31 foster parent for which the fund may be liable unless that  
32 person has first filed a claim against the fund and the claim  
33 has been rejected, or the claim has been filed, approved, and  
34 paid in part, and damages in excess of the payment are  
35 claimed.

1 7. All processing of decisions and reports, payment of  
2 claims, and other administrative actions relating to the fund  
3 shall be conducted by the department of human services.

4 8. The department of human services shall adopt rules,  
5 pursuant to chapter 17A, to carry out the provisions of this  
6 section.

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HOUSE AMENDMENT TO  
SENATE FILE 2107

S-6014

1 Amend Senate File 2107, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 2. Page 1, line 33, by inserting after the word  
4 "aircraft," the following: "recreational vehicle,".

5 3. Page 2, line 9, by inserting after the word  
6 "source" the following: "including the child's own  
7 funds".

8 4. Page 2, by striking line 18 and inserting the  
9 following: "deductible. The fund is not liable for  
10 damages in excess of three hundred thousand dollars  
11 for a single foster home for all claims arising out of  
12 one or more occurrences during a calendar year."

13 5. Page 2, by striking line 28 and inserting the  
14 following:

15 "c. The department shall issue a decision on a  
16 claim within".

S-6014

Filed April 14, 1988

ADOPTED  
*as amended by 6021*  
*(p. 15 87)*

RECEIVED FROM THE HOUSE

## SENATE FILE 2107

-6021

1 Amend the House amendment S-6014 to Senate  
2 File 2107, as amended, passed, and reprinted by  
3 the Senate, as follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 \_\_\_\_\_. Page 1, line 3, by striking the word "a".  
7 \_\_\_\_\_. Page 1, by striking lines 4 through 7 and  
8 inserting the following: "either of the following:

9 a. An individual, as defined in section 237.1,  
10 subsection 7, who is licensed to provide child  
11 foster care and shall also be known as a "licensed  
12 foster home".

13 b. A guardian appointed on a voluntary petition  
14 of a ward pursuant to section 633.557, or a  
15 conservator appointed on a voluntary petition of  
16 a ward pursuant to section 633.572, provided the  
17 ward has an income that does not exceed one hundred  
18 fifty percent of the current federal office of  
19 management and budget poverty guidelines and who  
20 does not have resources in excess of the criteria  
21 for resources under the federal supplemental  
22 security income program. However, the ward's  
23 ownership of one residence and one vehicle shall  
24 not be considered in determining resources."

25 \_\_\_\_\_. Page 1, line 21, by inserting after the  
26 word "reimburse" the word "licensed".

27 2. Page 1, by inserting after line 7, the  
28 following:

29 "\_\_\_\_\_. Page 2, by inserting after line 14 the  
30 following:

31 "5. Except as provided in this section, the  
32 fund shall pay, on behalf of a guardian or  
33 conservator, the reasonable and necessary legal  
34 costs incurred in defending against a suit filed  
35 by a ward or the ward's representative and the  
36 damages awarded as a result of the suit, so long  
37 as it is determined that the guardian or  
38 conservator acted in good faith in the performance  
39 of their duties. A payment shall not be made if  
40 there is evidence of intentional misconduct or a  
41 knowing violation of the law by the guardian or  
42 conservator, including, but not limited to,  
43 failure to carry out the responsibilities required  
44 under sections 633.633 through 633.635 and 633.641  
45 through 633.651."

S-6021

Filed April 14, 1988

ADOPTED

BY CHARLES BRUNER

(p. 15 20)

SENATE FILE 2107

H-6424

1 Amend Senate File 2107, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 7 and  
4 inserting the following:

5 "1. For the purposes of this section, "foster  
6 home" means an individual, as defined in section  
7 237.1, subsection 7, who is licensed to provide child  
8 foster care."

9 2. Page 1, line 33, by inserting after the word  
10 "aircraft," the following: "recreational vehicle,".

11 3. Page 2, line 9, by inserting after the word  
12 "source" the following: "including the child's own  
13 funds".

14 4. Page 2, by striking line 18 and inserting the  
15 following: "deductible. The fund is not liable for  
16 damages in excess of three hundred thousand dollars  
17 for a single foster home for all claims arising out of  
18 one or more occurrences during a calendar year."

19 5. Page 2, by striking line 28 and inserting the  
20 following:

21 "c. The department shall issue a decision on a  
22 claim within".

23 6. Page 3, by inserting after line 6 the  
24 following:

25 "Sec. \_\_\_\_ . NEW SECTION. 633.683 GUARDIAN AND  
26 CONSERVATOR INSURANCE FUND.

27 1. For the purposes of this section, unless the  
28 context otherwise requires, "guardian" or  
29 "conservator" means a guardian or conservator as  
30 defined in section 633.63, subsection 3, and "fund"  
31 means the guardian and conservator insurance fund.

32 2. The guardian and conservator insurance fund is  
33 created within the office of the treasurer of state to  
34 be administered by the department of human services.  
35 The fund consists of all moneys appropriated by the  
36 general assembly for deposit in the fund. The general  
37 fund of the state is not liable for claims presented  
38 against the fund. The department may contract with  
39 another state agency, or private organization, to  
40 perform the administrative functions necessary to  
41 carry out this section.

42 3. Coverage under the fund shall be provided to  
43 guardians and conservators who serve wards whose  
44 income does not exceed one hundred fifty percent of  
45 the current federal office of management and budget  
46 poverty guidelines and whose resources do not exceed  
47 the criteria for resources under the federal  
48 supplemental security income program. However, the  
49 ward's ownership of one residence and one vehicle  
50 shall not be considered in determining resources.

H-6424

Page 2

1 4. Except as provided in this section, the fund  
2 shall pay, on behalf of a guardian or conservator, the  
3 reasonable and necessary legal costs incurred in  
4 defending against a suit filed by a ward or the ward's  
5 representative and the damages awarded as a result of  
6 the suit, up to a maximum of three hundred thousand  
7 dollars, so long as it is determined that the guardian  
8 or conservator acted in good faith in the performance  
9 of their duties. A payment shall not be made if there  
10 is evidence of intentional misconduct or a knowing  
11 violation of the law by the guardian or conservator,  
12 including, but not limited to, failure to carry out  
13 the responsibilities required under sections 633.633  
14 through 633.635 and 633.641 through 633.651.

15 5. Procedures for claims against the fund:

16 a. A claim against the fund shall be filed in  
17 accordance with the claims procedures and on forms  
18 prescribed by the department of human services.

19 b. The department shall issue a decision on a  
20 claim within one hundred eighty days of its  
21 presentation.

22 c. All processing of decisions and reports,  
23 payment of claims, and other administrative actions  
24 relating to the fund shall be conducted by the  
25 department of human services.

26 d. The department of human services shall adopt  
27 rules, pursuant to chapter 17A, to carry out the  
28 provisions of this section.

29 Sec. \_\_\_\_ . For the fiscal year beginning July 1,  
30 1988, and ending June 30, 1989, the department may use  
31 funds appropriated to the department for the foster  
32 home insurance fund under the provisions of House File  
33 2447, for the guardian and conservation insurance fund  
34 created by this Act."

35 7. Title page, line 1, by inserting after the  
36 word "fund" the following: "and a guardian and con-  
37 servator insurance fund".

By JAY of Appanoose

H-6424 FILED APRIL 13, 1988

A. w/ 4/14 (p 1905)

B - adopted "

SENATE AMENDMENT TO HOUSE AMENDMENT TO  
SENATE FILE 2107

H-6501

1 Amend the House amendment, S-6014 to Senate  
2 File 2107, as amended, passed and reprinted by  
3 the Senate, as follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 "\_\_\_\_\_. Page 1, line 3, by striking the word "a".

7 \_\_\_\_\_. Page 1, by striking lines 4 through 7 and  
8 inserting the following: "either of the following:

9 a. An individual, as defined in section 237.1,  
10 subsection 7, who is licensed to provide child  
11 foster care and shall also be known as a "licensed  
12 foster home".

13 b. A guardian appointed on a voluntary petition  
14 of a ward pursuant to section 633.557, or a  
15 conservator appointed on a voluntary petition of  
16 a ward pursuant to section 633.572, provided the  
17 ward has an income that does not exceed one hundred  
18 fifty percent of the current federal office of  
19 management and budget poverty guidelines and who  
20 does not have resources in excess of the criteria  
21 for resources under the federal supplemental  
22 security income program. However, the ward's  
23 ownership of one residence and one vehicle shall  
24 not be considered in determining resources."

25 \_\_\_\_\_. Page 1, line 21, by inserting after the  
26 word "reimburse" the word "licensed".

27 2. Page 1, by inserting after line 7, the  
28 following:

29 "\_\_\_\_\_. Page 2, by inserting after line 14 the  
30 following:

31 "5. Except as provided in this section, the  
32 fund shall pay, on behalf of a guardian or  
33 conservator, the reasonable and necessary legal  
34 costs incurred in defending against a suit filed  
35 by a ward or the ward's representative and the  
36 damages awarded as a result of the suit, so long  
37 as it is determined that the guardian or  
38 conservator acted in good faith in the performance  
39 of their duties. A payment shall not be made if  
40 there is evidence of intentional misconduct or a  
41 knowing violation of the law by the guardian or  
42 conservator, including, but not limited to,  
43 failure to carry out the responsibilities required  
44 under sections 633.633 through 633.635 and 633.641  
45 through 633.651.""

RECEIVED FROM THE SENATE

H-6501 FILED APRIL 15, 1988

CONCURRED (p. 2002)



SENATE FILE 2107

AN ACT

RELATING TO THE CREATION OF A FOSTER HOME INSURANCE FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 237.13 FOSTER HOME INSURANCE FUND.

1. For the purposes of this section, "foster home" means either of the following:

a. An individual, as defined in section 237.1, subsection 7, who is licensed to provide child foster care and shall also be known as a "licensed foster home".

b. A guardian appointed on a voluntary petition of a ward pursuant to section 633.557, or a conservator appointed on a voluntary petition of a ward pursuant to section 633.572, provided the ward has an income that does not exceed one hundred fifty percent of the current federal office of management and budget poverty guidelines and who does not have resources in excess of the criteria for resources under the federal supplemental security income program. However, the ward's ownership of one residence and one vehicle shall not be considered in determining resources.

2. The foster home insurance fund is created within the office of the treasurer of state to be administered by the department of human services. The fund consists of all moneys appropriated by the general assembly for deposit in the fund. The general fund of the state is not liable for claims presented against the fund. The department may contract with another state agency, or private organization, to perform the administrative functions necessary to carry out this section.

3. Except as provided in this section, the fund shall pay, on behalf of each licensed foster home, any valid and approved claim of foster children, their parents, guardians, or

guardians ad litem, for damages arising from the foster care relationship and the provision of foster care services. The fund shall also reimburse licensed foster homes for property damage or bodily injury, as a result of the activities of the foster child, and reasonable and necessary legal fees incurred in defense of civil claims filed pursuant to subsection 7, paragraph "d", and any judgments awarded as a result of such claims.

4. The fund is not liable for any of the following:

a. A loss arising out of a foster parent's dishonest, fraudulent, criminal, or intentional act.

b. An occurrence which does not arise from the foster care relationship.

c. A bodily injury arising out of the operation or use of a motor vehicle, aircraft, recreational vehicle, or watercraft owned, operated by, rented, leased, or loaned to, a foster parent.

d. A loss arising out of a foster parent's lascivious acts, indecent contact, or sexual activity, as defined in chapters 702 and 709. Notwithstanding any definition to the contrary in chapters 702 and 709, for purposes of this subsection a child is a person under the age of eighteen.

e. A loss or damage arising out of occurrences prior to July 1, 1988.

f. Exemplary or punitive damages.

g. Any claim for which compensation has been provided by, or is available from, any other source including the child's own funds.

h. The liability of a foster parent due solely to the foster parent's failure to obtain automobile or homeowner's insurance.

i. A loss or damage arising out of conduct which is in violation of administrative rules.

5. Except as provided in this section, the fund shall pay, on behalf of a guardian or conservator, the reasonable and

necessary legal costs incurred in defending against a suit filed by a ward or the ward's representative and the damages awarded as a result of the suit, so long as it is determined that the guardian or conservator acted in good faith in the performance of their duties. A payment shall not be made if there is evidence of intentional misconduct or a knowing violation of the law by the guardian or conservator, including, but not limited to, failure to carry out the responsibilities required under sections 633.633 through 633.635 and 633.641 through 633.651.

6. The fund is not liable for the first one hundred fifty dollars of any claim based on a single occurrence. Claims may not be aggregated or accumulated to avoid payment of this deductible. The fund is not liable for damages in excess of three hundred thousand dollars for a single foster home for all claims arising out of one or more occurrences during a calendar year.

7. Procedures for claims against the fund:

a. A claim against the fund shall be filed in accordance with the claims procedures and on forms prescribed by the department of human services.

b. A claim shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim. If a claim is not submitted to the fund within the applicable time, the claim shall be rejected.

c. The department shall issue a decision on a claim within one hundred eighty days of its presentation.

d. A person shall not bring a civil action against a foster parent for which the fund may be liable unless that person has first filed a claim against the fund and the claim has been rejected, or the claim has been filed, approved, and paid in part, and damages in excess of the payment are claimed.

8. All processing of decisions and reports, payment of claims, and other administrative actions relating to the fund shall be conducted by the department of human services.

9. The department of human services shall adopt rules, pursuant to chapter 17A, to carry out the provisions of this section.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2107, Seventy-second General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved May 12, 1988

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TERRY E. BRANSTAD  
Governor