

An Act Clarifying Insurance Liability for Foster Care Providers

[S.1134](#) / [H.1600](#)

*** Filed by Senator John C. Velis & Representative Sally P. Kerans ***

ABOUT THE CHILDREN'S LEAGUE OF MASSACHUSETTS

The Children's League of Massachusetts (CLM) is a statewide non-profit association of providers, advocates, and regulators of services that collectively advocate for public policies and quality services that are in the best interest of the Commonwealth's children, youth and families.

THE PROBLEM

Insurance Coverage Costs Specific to Foster Care Providers are Exponentially Rising:

Within our membership network, CLM represents foster care and comprehensive foster care contracted providers in Massachusetts. Over the past several years, sky-rocketing insurance rates specifically for foster care agencies and child-serving nonprofits are forcing agencies to consider reducing services or shutting down vital operations. Losing these services would exacerbate the already severe placement crisis within our child welfare system.

The Impact on Contracted Foster Care Providers:

- The number of insurers willing to offer foster care liability insurance has reduced to one standard market carrier, eliminating marketplace competition.
- Providers have seen a significant increase in the cost of insurance:
 - A provider reported a 120% increase in their premium in 2021, with a reduction in key coverage. In 2022, another provider reported a 74% increase in annual liability insurance costs over a three-year period.
- Insurance companies have added programmatic oversight requirements beyond what is required by the state, driving up operational costs for providers.

THE SOLUTION

An Act clarifying insurance liability for foster care providers ([SD.208](#) & [HD.1820](#)) protects nonprofit organizations by ensuring government contracts that unfairly shift liability from the Department of Children and Families or other third parties to contracted nonprofit providers are unenforceable. The goal in passing this legislation is to demonstrate to insurers that providers will only be liable for their own actions and will not be held responsible for negligence on the part of the state or other third parties. This clarification of accountability will help insurance providers remain in this market, which will increase the pool of insurance options and, ultimately, drive down costs for nonprofit providers. This bill is comparable to a Pennsylvania law passed in 2022 ([PA HB2214](#)).

Last Updated March 2023