



## AB 2206 – Foster Home Insurance Fund Liability

### IN BRIEF

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AB 2206 seeks to clarify that The Foster Family and Small Family Home Insurance Fund is not liable for claims that arise from any dishonest, fraudulent, criminal, or intentional act committed by a foster parent.

### BACKGROUND

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There are roughly 80,000 foster children in California. Most children are placed temporarily in foster care due to parental abuse or neglect. The average length of stay for children in foster care is around 3 years.

In the mid 1980's licensed foster parents had difficulty finding homeowner and other types of insurance since the policies excluded them from coverage. At that time, many foster parents were financially responsible for any damages arising out of the foster placement.

In 1986 the Legislature created the "Foster Family Home and Small Family Home Insurance Fund" to provide insurance coverage for licensed foster parents. The Fund would pay liability claims on behalf of foster parents to "foster children, their parents, guardians, or guardians...resulting from occurrences peculiar to the foster-care relationship and the provision of foster care services (H&S 11527)". The Fund's coverage limit is set at \$300,000 per home and is intended to cover any valid claim of bodily injury or personal injury.

### THE ISSUE

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A recent court decision, *Brandon S. v. The State of California ex rel Foster Family Home and Small Family Home Insurance Fund*, changed the historic interpretation of the Fund putting foster parents on the hook if a third-party injures the foster child.

Subsection (a) of 1527.3, states that the Fund is not liable for "any loss arising out of a dishonest,

fraudulent, criminal, or intentional act," but does not refer specifically to a foster parent, as all other subsections do. Due to a very specific interpretation of subsection (a), the court recently held that the Fund is not liable for intentional harms caused by *anyone* -- even if they are not foster parents -- and even when the foster parent acted in a way that would normally trigger coverage.

With the recent interpretation of the statute, foster parents once again find themselves to be financially vulnerable. This new ruling means that a foster parent's personal property and assets are liable if a situation arises where their negligence permits a third party to harm the foster child.

If foster parents are held financially responsible for any damages to the child under their care as result of their negligence, it will make it increasingly difficult for the State to recruit and retain foster parents.

### THE SOLUTION

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AB 2206 amends 1527.3 (a) to reflect the Legislature's original intent as follows: Any loss arising out of dishonest, fraudulent, criminal, or intentional **act of a foster parent.**

### SUPPORT

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Children's Advocacy Institute (Sponsor)

### FOR MORE INFORMATION

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