MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1498

S.P. 498

In Senate, March 31, 2003

An Act To Improve Access by the Department of Corrections to Federal Funds under Title IV-E of the federal Social Security Act

Submitted by the Department of Corrections pursuant to Joint Rule 204.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator STRIMLING of Cumberland.
Cosponsored by Representative GERZOFSKY of Brunswick and
Representatives: BUNKER of Kossuth Township, CHURCHILL of Washburn, LESSARD of
Topsham, MAIETTA of South Portland.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 15 MRSA §3314, sub-§1, ¶H, as amended by PL 1999, c. 624, Pt. A, §7, is further amended to read:

The court may commit the juvenile to a Department of Corrections juvenile correctional facility and order that the disposition be suspended or may commit the juvenile for a period of detention that may not exceed 30 days, with or without an underlying suspended disposition to a Department juvenile Corrections correctional facility, detention must be served concurrently with any other period of detention previously imposed and not fully discharged or imposed on the same date but may be served intermittently as the court may order and must be ordered served in a detention facility approved or operated by the Department of Corrections exclusively for juveniles. The court may order such a disposition to be served as a part of and with a period of probation that is subject to such provisions of Title 17-A, section 1204 as the court may order and that must be administered pursuant to Title 34-A, chapter 5, subchapter IV 4. Revocation of probation is governed by the procedure contained in subsection 2. Any disposition under this paragraph is subject to Title 17-A, section 1253, subsection 2, but not to Title 17-A, section subsection 3-B, 4, 5 or 8. Whenever a juvenile is committed for a period of detention, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders a commitment for a period of detention.

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Sec. 2. 15 MRSA §3314, sub-§2, as amended by PL 2001, c. 696, §5, is further amended to read:

2. Suspended disposition. The court may impose any of the dispositional alternatives provided in subsection 1 and may suspend its disposition and place the juvenile on a specified period of probation that is subject to such provisions of Title 17-A, section 1204 as the court may order and that is administered pursuant to the provisions of Title 34-A, chapter 5, subchapter IV 4, except that the court may not impose the condition set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition of probation that a juvenile must reside outside the juvenile's home in a setting satisfactory to the juvenile community corrections officer if the court

determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B, and that continuation in the juvenile's home would be contrary to the welfare of the juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

10 Modification of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 2. Termination of probation is governed by the procedures contained in Title 17-A, 12 section 1202, subsection 3. Revocation of probation is governed by the procedures contained in Title 17-A, sections 1205, 1205-B, 14 1205-C and 1206, except that the provisions of those sections requiring a preliminary hearing do not apply and those provisions 16 of Title 17-A, section 1206, subsection 7-A allowing a vacating part of the suspension of execution apply only to a 18 disposition under subsection 1, paragraph G or H; however, a disposition under subsection 1, paragraph F may be modified to a 20 subsection 1, paragraph H. disposition under Whenever a 22 revocation of probation results in the imposition of a disposition under subsection 1, paragraph F or a period of detention under subsection 1, paragraph H, the court shall 24 determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the 26 juvenile's home or that no reasonable efforts are necessary 28 because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and whether continuation 30 in the juvenile's home would be contrary to the welfare of the juyenile. This determination does not affect whether the court 32 orders a particular disposition upon a revocation of probation. If the juvenile is being detained for an alleged violation of 34 probation, the court shall review within 48 hours following the detention, excluding Saturdays, Sundays and legal holidays, the 36 decision to detain the juvenile. Following that review, the court shall order the juvenile's release unless the court finds that there is probable cause to believe that the juvenile has 38 violated a condition of probation and finds, by a preponderance of the evidence, that continued detention is necessary to meet 40 one of the purposes of detention under section 3203-A, subsection 42 4, paragraph C. Whenever a court orders continued detention, the court shall determine whether reasonable efforts have been made 44 to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary 46 because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and whether continuation 48 in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court 50 orders continued detention.

Sec. 3. 15 MRSA §3315, sub-§3, as amended by PL 1999, c. 260, Pt. A, §10, is further amended to read:

3. Court review of determination. Whenever a court makes a determination pursuant to section 3314, subsection 1, paragraph F or section 3314, subsection 2 that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and that continuation in the juvenile's home would be contrary to the welfare of the juvenile, that determination must be reviewed by the court not less than once every 12 months until the juvenile is discharged or no longer residing outside the juvenile's home or attains 18 years of age. This review does not affect a juvenile's commitment to a Department of Corrections juvenile correctional facility.

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SUMMARY

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This bill amends the Maine Revised Statutes, Title 15, section 3314, subsection 1, paragraph H so that when a juvenile is given a "shock" sentence, or 30-day short term sentence, the court must make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. This bill also amends Title 15, section 3314, subsection 2 to add a provision so that whenever a probation revocation results in a juvenile's being committed to a department facility, whether for an indeterminate time or for a "shock" sentence, the court must make the reasonable-efforts determination required for federal funding under Title IV-E of the Social Security Act. Title 15, section 3314 is amended so that the determination is made whenever a court orders continued detention pending a probation revocation. Compliance with the requirements of Title IV-E is necessary to receive federal funds for juveniles who are placed outside of their homes. Finally, this bill amends Title 15, section 3315, subsection 3 to end the reviews of these reasonable-efforts determinations once a juvenile reaches 18 years of age, when eligibility for federal funding ceases.