

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



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.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator STRIMLING of Cumberland.
Cosponsored by Representative GERZOFKY 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:

2
4 **Sec. 1. 15 MRSA §3314, sub-§1, ¶H,** as amended by PL 1999, c. 624, Pt. A, §7, is further amended to read:

6 H. The court may commit the juvenile to a Department of
8 Corrections juvenile correctional facility and order that
10 the disposition be suspended or may commit the juvenile for
12 a period of detention that may not exceed 30 days, with or
14 without an underlying suspended disposition to a Department
16 of Corrections juvenile correctional facility, which
18 detention must be served concurrently with any other period
20 of detention previously imposed and not fully discharged or
22 imposed on the same date but may be served intermittently as
24 the court may order and must be ordered served in a
26 detention facility approved or operated by the Department of
28 Corrections exclusively for juveniles. The court may order
30 such a disposition to be served as a part of and with a
32 period of probation that is subject to such provisions of
34 Title 17-A, section 1204 as the court may order and that
36 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 1253,
 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.

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

40 **2. Suspended disposition.** The court may impose any of the
42 dispositional alternatives provided in subsection 1 and may
44 suspend its disposition and place the juvenile on a specified
46 period of probation that is subject to such provisions of Title
48 17-A, section 1204 as the court may order and that is
50 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

2 determines that reasonable efforts have been made to prevent or
eliminate the need for removal of the juvenile from the
4 juvenile's home or that no reasonable efforts are necessary
because of the existence of an aggravating factor as defined in
6 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
8 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
12 probation is governed by the procedures contained in Title 17-A,
section 1202, subsection 3. Revocation of probation is governed
14 by the procedures contained in Title 17-A, sections 1205, 1205-B,
1205-C and 1206, except that the provisions of those sections
16 requiring a preliminary hearing do not apply and those provisions
of Title 17-A, section 1206, subsection 7-A allowing a vacating
18 of part of the suspension of execution apply only to a
disposition under subsection 1, paragraph G or H; however, a
20 disposition under subsection 1, paragraph F may be modified to a
disposition under subsection 1, paragraph H. Whenever a
22 revocation of probation results in the imposition of a
24 disposition under subsection 1, paragraph F or a period of
26 detention under subsection 1, paragraph H, the court shall
28 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
30 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
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
38 that there is probable cause to believe that the juvenile has
violated a condition of probation and finds, by a preponderance
40 of the evidence, that continued detention is necessary to meet
one of the purposes of detention under section 3203-A, subsection
42 4, paragraph C. Whenever a court orders continued detention, the
44 court shall determine whether reasonable efforts have been made
46 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
48 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
50 orders continued detention.

