

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 electronic originals
(may include minor formatting differences from printed original)



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2039

H.P. 1450

House of Representatives, January 16, 2020

**An Act To Provide for Judicial Review in Compliance with the
Federal Legislation Known as the Family First Prevention Services
Act**

Submitted by the Department of Health and Human Services pursuant to Joint Rule 203.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MADIGAN of Waterville.

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

2 **Sec. 1. 22 MRSA §4002, sub-§6-B** is enacted to read:

3 **6-B. Qualified professional.** "Qualified professional" means a qualified individual
4 as defined in the federal Bipartisan Budget Act of 2018, Public Law 115-123, Division E,
5 Title VII (2018), known as the Family First Prevention Services Act.

6 **Sec. 2. 22 MRSA §4002, sub-§6-C** is enacted to read:

7 **6-C. Qualified residential treatment program.** "Qualified residential treatment
8 program" means a program within a licensed children's residential care facility as defined
9 in section 8101, subsection 4 that provides continuous 24-hour care and supportive
10 services to children in a residential nonfamily home setting that:

11 A. Uses a trauma-informed treatment model that is designed to address the clinical
12 and other needs of children with serious emotional and behavioral disorders or
13 disturbances;

14 B. Implements a specific treatment recommended in a needs assessment completed
15 by a qualified professional;

16 C. Employs registered or licensed nursing staff and other licensed clinical staff who
17 are:

18 (1) On site according to the treatment model used pursuant to paragraph A and
19 during business hours; and

20 (2) Available 7 days a week on a 24-hour basis;

21 D. Appropriately facilitates outreach to family members and integrates those family
22 members into the treatment of children;

23 E. Provides discharge planning for children;

24 F. Is licensed by the department in accordance with the United States Social Security
25 Act, Section 471(a)(10); and

26 G. Is accredited by an independent nonprofit organization approved by the
27 department.

28 **Sec. 3. 22 MRSA §4038, sub-§8** is enacted to read:

29 **8. Placement in qualified residential treatment program; hearing within 60**
30 **days.** The court shall conduct a hearing to review the status of a child placed in a
31 qualified residential treatment program and determine the appropriateness of the
32 placement within 60 days after the child enters the program.

33 A. At the hearing under this subsection, the court shall:

34 (1) Review a needs assessment of the child conducted by a qualified
35 professional;

1 (2) Consider whether the needs of the child can be met through an alternative
2 placement in a family foster home as defined in section 8101, subsection 3;

3 (3) Consider whether the placement of the child in a qualified residential
4 treatment program provides effective and appropriate care for the child in the
5 least restrictive environment; and

6 (4) Consider whether placement of the child in a qualified residential treatment
7 program is consistent with the short-term and long-term goals for the child as
8 specified in the permanency plan of the child protection case pursuant to section
9 4038-B.

10 B. The court shall state, in writing, the reasons for its decision to approve or
11 disapprove under this subsection the continued placement of the child in the qualified
12 residential treatment program.

13 C. In a hearing under this subsection, records of evaluations of the child and medical,
14 behavioral and mental health records of the child are admissible upon showing that
15 the records contain information relevant to the issues before the court, as long as the
16 records are made available to counsel at least 10 days prior to the hearing.

17 **Sec. 4. 22 MRSA §4038, sub-§9** is enacted to read:

18 **9. Continued placement in qualified residential treatment program; judicial**
19 **review.** At each review conducted pursuant to this section regarding a child placed in a
20 qualified residential treatment program, the court shall make judicial findings, by a
21 preponderance of the evidence, regarding the child's continued placement.

22 A. The court shall:

23 (1) Determine whether an ongoing needs assessment of the child, as prepared by
24 qualified professionals, supports continued placement of the child in the qualified
25 residential treatment program;

26 (2) Determine whether the documentation about the child regarding the child's
27 placement in the qualified residential treatment program supports the conclusion
28 that it is an effective and appropriate level of care for the child in the least
29 restrictive environment; and

30 (3) Determine whether the documentation about the child supports the
31 conclusion that continued placement in the qualified residential treatment
32 program is consistent with the short-term and long-term goals for the child as
33 specified in the permanency plan of the child protection case pursuant to section
34 4038-B.

35 B. The court shall state, in writing, the reasons for its decision to approve or
36 disapprove under this subsection the continued placement of the child in the qualified
37 residential treatment program.

38 C. In a hearing under this section regarding the child's continued placement in a
39 qualified residential treatment program, records of evaluations of the child and
40 medical, behavioral and mental health records of the child are admissible upon
41 showing that the records contain information relevant to the issues before the court,

1 as long as the records are made available to counsel at least 10 days prior to the
2 hearing.

3

SUMMARY

4 In order to claim federal reimbursement for the cost of a child's placement in a
5 residential care facility under the federal legislation known as the Family First Prevention
6 Services Act, this bill adds definitions to the Child and Family Services and Child
7 Protection Act and creates a statutory requirement for a court hearing within 60 days of a
8 child's placement in a qualified residential treatment program within a residential care
9 facility. Additionally, this bill ensures that regular reviews of a child's placement in a
10 qualified residential treatment program are conducted by the court.