

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1516

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H.P. 971

House of Representatives, April 5, 2023

### An Act to Establish Alternative Sentencing for Primary Caregivers

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Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT  
Clerk

Presented by Speaker TALBOT ROSS of Portland.  
Cosponsored by Senator BAILEY of York and  
Representatives: KUHN of Falmouth, LEE of Auburn, RECKITT of South Portland.

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

2 **Sec. 1. 17-A MRSA §1613** is enacted to read:

3 **§1613. Alternative sentencing for primary caregivers**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6 A. "Dependent" has the same meaning as in Title 33, section 1021, subsection 1.

7 B. "Elderly" means an individual who is 60 years of age or older.

8 C. "Physical or mental disability" has the same meaning as in Title 5, section 4553-A,  
9 subsection 1.

10 D. "Primary caregiver" means a person who has the greatest responsibility for the care  
11 of a minor, an elderly dependent or an individual with a physical or mental disability.

12 **2. Motion for alternative sentence.** Upon a conviction of an offense that may result  
13 in a sentence of imprisonment, unless the offense requires a sentence of imprisonment, the  
14 court may issue an alternative sentence under section 1502, subsection 2 due to the  
15 defendant's being a primary caregiver. The court shall consider the defendant's status as a  
16 primary caregiver if no more than 10 days after the entry of judgment the defendant makes  
17 a motion for an alternative sentence. A motion for an alternative sentence under this  
18 subsection must be supported by an affidavit by the defendant detailing the basis for the  
19 assertion that the defendant is a caregiver under this section.

20 **3. Findings.** Upon receipt of a motion for an alternative sentence under subsection 2,  
21 the court shall consider the defendant's status as a primary caregiver and make written  
22 findings of the court's decision prior to issuing the sentence. In making the decision under  
23 this subsection, the court shall consider:

24 A. The nature and circumstances of the offense committed;

25 B. The history and character of the defendant;

26 C. The defendant's family circumstances and relationships; and

27 D. The impact of any sentence considered on every individual for whom the defendant  
28 is the primary caregiver.

29 **SUMMARY**

30 This bill requires a court in sentencing a defendant convicted of an offense that may  
31 result in a term of imprisonment, upon motion of the defendant and supported by an  
32 affidavit, to consider an alternative sentence other than imprisonment due to the defendant's  
33 being a primary caregiver of a minor, elderly dependent or individual with a mental or  
34 physical disability. In making the decision, the court is required to consider factors such as  
35 the nature and circumstances of the offense, the history and character of the defendant, the  
36 defendant's family circumstances and relationships and the impact of any sentence  
37 considered on every individual for whom the defendant is the primary caregiver. The court  
38 is required to make written findings of the court's decision before issuing the sentence.