



# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 2039

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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**

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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,

