



130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 765

H.P. 570

House of Representatives, March 5, 2021

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

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HARNETT of Gardiner.

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 individual.** "Qualified individual" has the same meaning as in 42
4 United States Code, Section 675a(c)(1)(D)(i) (2020).

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

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

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

13 B. Implements a specific treatment recommended in a needs assessment completed by
14 a qualified individual;

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

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

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

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

22 E. Provides discharge planning for children including 6 months of post-discharge
23 aftercare support;

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 department.

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

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

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

33 (1) Review a needs assessment of the child conducted by a qualified individual;

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

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

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

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

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

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

9. Continued placement in qualified residential treatment program; judicial review. At each review conducted pursuant to this section regarding a child placed in a qualified residential treatment program, the court shall make judicial findings, by a preponderance of the evidence, regarding the child's continued placement. The court shall conduct a hearing to review the status of a child placed in a qualified residential treatment program and determine the appropriateness of placement within 60 days after the child continues placement in the qualified residential treatment program.

A. The court shall:

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

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

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

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

C. In a hearing under this subsection regarding the child's continued placement in a qualified residential treatment program, records of evaluations of the child and medical, behavioral and mental health records of the child are admissible upon showing that the records contain information relevant to the issues before the court, as long as the records are made available to counsel at least 10 days prior to the hearing.

SUMMARY

In order to claim federal reimbursement for the cost, with respect to a child in state custody, of placement in a residential care facility under the federal Family First Prevention

1 Services Act, this bill adds definitions to the Child and Family Services and Child
2 Protection Act and creates a statutory requirement for a court hearing within 60 days of a
3 child's placement in a qualified residential treatment program. Additionally, this bill
4 ensures that regular reviews of a child's continued placement in a qualified residential
5 treatment program are conducted by the court.