

132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 246

S.P. 112

In Senate, January 21, 2025

An Act to Establish the Option of Sentencing Alternatives for Primary Caregivers

Reference to the Committee on Judiciary suggested and ordered printed.

DAREK M. GRANT Secretary of the Senate

Presented by Senator TALBOT ROSS of Cumberland. Cosponsored by Representative KUHN of Falmouth and

Senators: BEEBE-CENTER of Knox, CARNEY of Cumberland, HICKMAN of Kennebec,

Representatives: HASENFUS of Readfield, LEE of Auburn, SATO of Gorham.

following terms have the following meanings. A. "Dependent" has the same meaning as in Title 33, section 1021, subsection 1. B. "Elderly" means that an individual is 60 years of age or older. C. "Physical or mental disability" has the same meaning as in Title 5, section 455; subsection 1. D. "Primary caregiver" means an individual who has the greatest responsibility for care of a minor, an elderly dependent person or an individual with a physical or me disability. 2. Motion for sentencing alternative. Upon a conviction of an offense that result in a sentence of imprisonment, unless the offense requires a sentence imprisonment, the court may issue a sentencing alternative under section 1502, subsect 2 due to the defendant's being a primary caregiver. The court shall consider the defendat status as a primary caregiver if, no more than 10 days after the entry of judgment, defendant makes a motion for a sentencing alternative. A motion for a sentencing alternative under this subsection must be supported by an affidavit by the defendant elementary under this subsection that the defendant is a primary caregiver under section. 3. Findings. Upon receipt of a motion for a sentencing alternative under subsect 2, the court shall consider the defendant's status as a primary caregiver and make wire findings of the court's decision prior to issuing the sentence. In making the decision under this subsection, the court shall consider: A. The nature and circumstances of the offense committed; B. The history and character of the defendant; C. The defendant's family circumstances and relationships; and D. The impact of any sentence on every individual for whom the defendant is primary caregiver. SUMMARY This bill requires a court in sentencing a defendant convicted of an offense that result in a term of imprisonment, upon motion of the defendant and supported by affidavit, to consider a sentencing alternative other than imprisonment due to	1	Be it enacted by the People of the State of Maine as follows:
1. Definitions. As used in this section, unless the context otherwise indicates, following terms have the following meanings. A. "Dependent" has the same meaning as in Title 33, section 1021, subsection 1. B. "Elderly" means that an individual is 60 years of age or older. C. "Physical or mental disability" has the same meaning as in Title 5, section 455; subsection 1. D. "Primary caregiver" means an individual who has the greatest responsibility for care of a minor, an elderly dependent person or an individual with a physical or medisability. 2. Motion for sentencing alternative. Upon a conviction of an offense that a result in a sentence of imprisonment, unless the offense requires a sentence imprisonment, the court may issue a sentencing alternative under section 1502, subsect 2 due to the defendant's being a primary caregiver. The court shall consider the defendant satus as a primary caregiver if, no more than 10 days after the entry of judgment, defendant makes a motion for a sentencing alternative. A motion for a sentence alternative under this subsection must be supported by an affidavit by the defendent section. 3. Findings. Upon receipt of a motion for a sentencing alternative under subsect 2, the court shall consider the defendant's status as a primary caregiver and make wrifindings of the court's decision prior to issuing the sentence. In making the decision ut this subsection, the court shall consider: A. The nature and circumstances of the offense committed: B. The history and character of the defendant; C. The defendant's family circumstances and relationships; and D. The impact of any sentence on every individual for whom the defendant is primary caregiver.	2	Sec. 1. 17-A MRSA §1613 is enacted to read:
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9 subsection 1. 10 D. "Primary caregiver" means an individual who has the greatest responsibility for care of a minor, an elderly dependent person or an individual with a physical or me disability. 13 2. Motion for sentencing alternative. Upon a conviction of an offense that result in a sentence of imprisonment, unless the offense requires a sentence imprisonment, the court may issue a sentencing alternative under section 1502, subsect 2 due to the defendant's being a primary caregiver. The court shall consider the defendat status as a primary caregiver if, no more than 10 days after the entry of judgment, defendant makes a motion for a sentencing alternative. A motion for a sentence alternative under this subsection must be supported by an affidavit by the defendating the basis for the assertion that the defendant is a primary caregiver under section. 22 3. Findings. Upon receipt of a motion for a sentencing alternative under subsect 2. the court shall consider the defendant's status as a primary caregiver and make wrifindings of the court's decision prior to issuing the sentence. In making the decision under this subsection, the court shall consider: A. The nature and circumstances of the offense committed; B. The history and character of the defendant; C. The defendant's family circumstances and relationships; and D. The impact of any sentence on every individual for whom the defendant is primary caregiver. 31 SUMMARY This bill requires a court in sentencing a defendant convicted of an offense that result in a term of imprisonment, upon motion of the defendant and supported by affidavit, to consider a sentencing alternative other than imprisonment due to	7	B. "Elderly" means that an individual is 60 years of age or older.
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23	14 15 16 17 18 19 20	2. Motion for sentencing alternative. Upon a conviction of an offense that may result in a sentence of imprisonment, unless the offense requires a sentence of imprisonment, the court may issue a sentencing alternative under section 1502, subsection 2 due to the defendant's being a primary caregiver. The court shall consider the defendant's status as a primary caregiver if, no more than 10 days after the entry of judgment, the defendant makes a motion for a sentencing alternative. A motion for a sentencing alternative under this subsection must be supported by an affidavit by the defendant detailing the basis for the assertion that the defendant is a primary caregiver under this section.
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physical or mental disability. In making the decision, the court is required to cons factors such as the nature and circumstances of the offense, the history and character of defendant, the defendant's family circumstances and relationships and the impact of	33 34 35 36 37 38	This bill requires a court in sentencing a defendant convicted of an offense that may result in a term of imprisonment, upon motion of the defendant and supported by an affidavit, to consider a sentencing alternative other than imprisonment due to the defendant's being a primary caregiver of a minor, elderly dependent or individual with a physical or mental disability. In making the decision, the court is required to consider factors such as the nature and circumstances of the offense, the history and character of the defendant, the defendant's family circumstances and relationships and the impact of any sentence considered on every individual for whom the defendant is the primary caregiver

The court is required to make written findings of the court's decision before issuing the sentence.