

132nd Maine Legislature  
An Act to Establish the Option of Sentencing Alternatives for Primary Caregivers  
L.D. 246

**SPONSORS PROPOSED AMENDMENT TO An Act to Establish the Option of Sentencing Alternatives for Primary Caregivers**

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

**Sec. 1. 17-A MRSA §1502, sub-§5-A** is enacted to read:

**5-A. Consideration of sentencing alternative for primary caregiver.** Except when specifically precluded, in choosing the appropriate punishment for an individual convicted of a crime who is a primary caregiver of a minor, dependent or incapacitated adult, there is a rebuttable presumption against the court imposing a sentencing alternative involving imprisonment under subsection 2, paragraph E. Prior to issuing the sentence, the court shall enumerate, in open court, the factors considered in determining a sentence imposed under this subsection. Beginning in 2026 and annually thereafter, by January 1<sup>st</sup>, the Maine Judicial Branch shall submit a report to the joint standing committee having jurisdiction over judiciary matters identifying each instance the court sentences a person under this subsection and including the following:

- A. The person's name, gender, race, age and residence;
- B. The underlying charge the person is being sentenced on; and
- C. The nature of the alternative sentence given.

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

**§1613. Sentencing alternatives for primary caregivers**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the 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 4553-A, subsection 1.
- D. "Primary caregiver" means an individual who has the greatest responsibility for the care of a minor, an elderly dependent person or an individual with a physical or mental disability.

**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.

**3. Findings.** Upon receipt of a motion for a sentencing alternative under subsection 2, the court shall consider the defendant's status as a primary caregiver and make written findings of the court's decision in open court, enumerating the factors considered 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;

2025 TODAY.NE

2/26/25

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L.D. 246

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

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

**SUMMARY**

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 incapacitated adult 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 in open court of the court's decision before issuing the sentence. The bill also requires the Judicial Branch to report annually to the Judiciary Committee identifying each instance the court sentences a person under this subsection and including the person's name, gender, race, age and residence, the underlying charge the person is being sentenced on and the nature of the alternative sentence given.