

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 570 - L.D. 765

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

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

Sec. 1. 22 MRSA §4002, sub-§6-B is enacted to read:

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

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

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

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

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

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

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

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

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

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

F. Is licensed by the department in accordance with the United States Social Security Act, Section 471(a)(10); and

G. Is accredited by an independent nonprofit organization approved by the department.

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

8. Placement in qualified residential treatment program; hearing within 60 days.

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 the placement within 60 days after the child enters the program.

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

- (1) Review a needs assessment of the child conducted by a qualified individual;
- (2) Consider whether the needs of the child can be met through an alternative placement in a family foster home as defined in section 8101, subsection 3;
- (3) Consider whether the placement of the child in a qualified residential treatment program provides effective and appropriate care for the child in the least restrictive 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 review the status of a child placed in a qualified residential treatment program at every judicial review and permanency hearing and determine the continued appropriateness of 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 review 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 review.

Sec. 5. 22 MRSA §4038, sub-§10 is enacted to read:

10. Rules concerning judicial review of the placement of children in qualified residential treatment programs. Notwithstanding any provision of law to the contrary, the Supreme Judicial Court may adopt rules of pleading, practice and procedure with respect to proceedings required by subsections 8 and 9. After the effective date of the rules as adopted or amended, all laws in conflict with the rules are of no further effect.