

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

---

Legislative Document

No. 1996

---

S.P. 771

In Senate, December 18, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on December 18, 1989. Referred to the Committee on Judiciary and 1,600 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HOBBS of York.

---

STATE OF MAINE

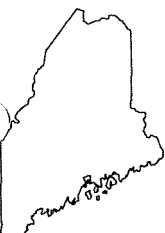
---

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

---

An Act to Make Certain Housekeeping Changes to Various Punishment Sections of the Maine Criminal Code.

---



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

2  
3 Sec. 1. 17-A MRSA §1203, sub-§1, as repealed and replaced by  
4 PL 1985, c. 821, §6, is amended to read:

5  
6 1. The court may sentence a person to a term of  
7 imprisonment, not to exceed the maximum term authorized for the  
8 crime, an initial portion of which shall be served and the  
9 remainder of which shall be suspended. As to both the initial  
10 ~~unsuspended portion and the suspended portion relative to a Class~~  
11 ~~A, Class B or Class C crime, the sentence of the court shall~~  
12 ~~specify the place of imprisonment if that place is to be a county~~  
13 ~~jail, otherwise the court shall commit the person to the~~  
14 ~~Department of Corrections.~~ and unsuspended portions of the  
15 sentence, the place of imprisonment must be as follows.

16  
17 A. For a Class D or Class E crime the court must specify a  
18 county jail as the place of imprisonment.

19  
20 B. For a Class A, Class B or Class C crime the court must  
21 specify a county jail as the place of imprisonment if any  
22 portion of the sentence is 9 months or less. If the portion  
23 of the sentence is more than 9 months, the court must commit  
24 the person to the Department of Corrections for that portion.

25  
26 ~~Beginning April 1, 1987, if any portion of a split sentence is~~  
27 ~~specified by the court to be 6 months or less, the court shall~~  
28 ~~specify the place of imprisonment to be a county jail as to that~~  
29 ~~portion. Beginning January 1, 1989, if any portion of a split~~  
30 ~~sentence is specified by the court to be 9 months or less, the~~  
31 ~~court shall specify the place of imprisonment to be a county jail~~  
32 ~~as to that portion. In the case of a Class D or Class E crime,~~  
33 ~~the court shall, after the effective date of this paragraph,~~  
34 ~~specify the place of imprisonment to be a county jail with~~  
35 ~~respect to each portion of the split sentence.~~

36  
37 The period of probation shall ~~commence~~ commences on the date the  
38 person is released from his the initial unsuspended portion of  
39 the term of imprisonment, unless the court orders that it shall  
40 to commence on an earlier date. If the period of probation is ~~to~~  
41 ~~commence~~ commences upon release of the person from the initial  
42 unsuspended portion of the term of imprisonment, the court may  
43 nevertheless revoke probation for any criminal conduct committed  
44 during that initial period of imprisonment.

45  
46 Sec. 2. 17-A MRSA §1204, sub-§2-A, ¶I, as enacted by PL 1975,  
47 c. 740, §110-A, is amended to read:

48  
49 I. To refrain from drug abuse and use or excessive use of  
50 alcohol;

2           Sec. 3. 17-A MRSA §1204, sub-§2-A, ¶K, as repealed and  
replaced by PL 1977, c. 53, §4, is repealed and the following  
enacted in its place:

4  
6           K. To pay any monetary penalty imposed by the court as part  
of the sentence;

8           Sec. 4. 17-A MRSA §1206, sub-§9 is enacted to read:

10           9. Whenever a previously suspended sentence of imprisonment  
for a Class A, Class B or Class C crime is vacated, in whole or  
12 in part, as the result of a probation revocation, the court must  
respecify the place of imprisonment for both the portion required  
14 to be served and any remaining suspended portion, if necessary,  
to carry out the intent of section 1203, subsection 1.

16           Sec. 5. 17-A MRSA §1252, sub-§1, as repealed and replaced by  
18 PL 1985, c. 821, §7, is amended to read:

20           1. In the case of a person convicted of a crime other than  
murder, the court may sentence to imprisonment for a definite  
22 term as provided for in this section, unless the statute which  
the person is convicted of violating expressly provides that the  
24 fine and imprisonment penalties it authorizes may not be  
suspended, in which case the convicted person shall be sentenced  
26 to imprisonment and required to pay the fine authorized therein.  
~~The sentence of the court relative to a Class A, Class B or Class  
28 C crime shall specify the term to be served and the place of  
imprisonment if that place is to be a county jail, otherwise the  
30 court shall commit the person to the Department of Corrections.  
Except as provided in subsection 7, the place of imprisonment  
32 must be as follows.~~

34           A. For a Class D or Class E crime the court must specify a  
county jail as the place of imprisonment.

36           B. For a Class A, Class B or Class C crime the court must  
38 specify a county jail as the place of imprisonment if the  
term of imprisonment is 9 months or less. If the term of  
40 imprisonment is more than 9 months, the court must commit  
the person to the Department of Corrections.

42           ~~Beginning April 1, 1987, if the sentence of the court specifies  
44 the term of imprisonment to be 6 months or less, the court shall  
specify the place of imprisonment to be a county jail. Beginning  
46 January 1, 1989, if the sentence of the court specifies the term  
of imprisonment to be 9 months or less, the court shall specify  
48 the place of imprisonment to be a county jail. In the case of a  
Class D or Class E crime, the court shall, after the effective  
50 date of this paragraph, specify the place of imprisonment to be a  
county jail.~~

2           Sec. 6. 17-A MRSA §1252, sub-§6, as repealed and replaced by  
PL 1985, c. 821, §9, is repealed.

4           Sec. 7. 17-A MRSA §1252, sub-§7 is enacted to read:

6           7. If a sentence to a term of imprisonment in a county jail  
8           is consecutive to or is to be followed by a sentence to a term of  
10           imprisonment in the custody of the Department of Corrections, the  
12           court imposing either sentence may order that both be served in  
14           the custody of the Department of Corrections. If a court imposes  
            consecutive terms of imprisonment for Class D or Class E crimes  
            and the aggregate length of the terms imposed is one year or  
            more, the court may order that they be served in the custody of  
            the Department of Corrections.

16           Sec. 8. 17-A MRSA §1253, sub-§3, ¶A is enacted to read:

18           A. Deductions under this subsection must be calculated as  
20           follows for partial months.

<u>Days of partial month</u>	<u>Maximum good time</u> <u>credit available</u>
24           0 - 2 days	0
3 - 5 days	1
26           6 - 8 days	2
9 - 11 days	3
28           12 - 14 days	4
15 - 17 days	5
30           18 - 20 days	6
21 - 23 days	7
32           24 - 26 days	8
27 - 29 days	9
34           30 days	10

36           Sec. 9. 17-A MRSA §1253, sub-§3-B, ¶A is enacted to read:

38           A. Deductions under subsection 3-B must be calculated as  
40           follows for partial months.

<u>Days of partial month</u>	<u>Maximum good time</u> <u>credit available</u>
44           0 - 7 days	0
8 - 15 days	1
46           16 - 23 days	2
24 - 30 days	3

2

## STATEMENT OF FACT

4 This bill accomplishes the following:

6 1. It clarifies language regarding the place of  
imprisonment for suspended and unsuspended portions of sentences  
8 of imprisonment;

10 2. It establishes abstinence from alcohol as an appropriate  
condition for some probationers;

12 3. It substitutes the broader concept of "monetary penalty"  
14 for the present language of "fine" to reflect the existence of a  
number of sentence alternatives involving money such as county  
16 jail reimbursement fees and restitution;

18 4. It requires the court to examine the place of  
imprisonment when the court adjusts the length of a term of  
20 imprisonment or the suspended or unsuspended portions of a split  
sentence because of a probation violation;

22 5. It repeals the Maine Revised Statutes, Title 17-A,  
24 section 1252, subsection 6, the relevant substance of the first  
paragraph of which has been integrated into this bill;

26 6. It allows either the court that has imposed a county  
28 jail sentence or the court imposing a 2nd sentence to order that  
both sentences be served in the custody of the Department of  
30 Corrections or in a county jail; and

32 7. It standardizes good time deductions awarded for partial  
months to ensure uniform treatment.