

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)



116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

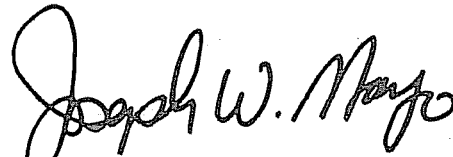
No. 1819

H.P. 1353

House of Representatives, February 1, 1994

An Act to Clarify the Sentencing Laws in Maine.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative PARADIS of Augusta.

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

2
3 Sec. 1. 15 MRSA §2151, as enacted by PL 1989, c. 218, §5, is
4 amended to read:

6 **§2151. Application to the Supreme Judicial Court by**
7 **defendant for review of certain sentences**

8
9 In cases arising in the District Court or the Superior Court
10 in which a defendant has been convicted of a criminal offense and
11 sentenced to a term of imprisonment of one year or more, the
12 District Attorney, Attorney General or defendant may, except in
13 any case in which a different term of imprisonment could not have
14 been imposed, apply to the Supreme Judicial Court, sitting as the
15 Law Court, for review of the sentence.

16
17 Sec. 2. 15 MRSA §2155, sub-§1, as amended by PL 1991, c. 525,
18 §2, is further amended to read:

19 1. **Propriety of sentence.** The propriety of the sentence,
20 having regard to the nature of the offense, the character of the
21 offender, the protection of the public interest, the effect of
22 the offense on the victim and any other relevant sentencing
23 factors recognized under law. The Supreme Judicial Court may not
24 establish any one sentencing factor or criteria as controlling,
25 to the exclusion of other relevant sentencing factors. The
26 Supreme Judicial Court may not otherwise promote a formulistic
27 approach to sentencing that would diminish the appropriate
28 differentiation among offenders and the just individualization of
29 sentencing; and

30
31 Sec. 3. 15 MRSA §2155-A is enacted to read:

32
33 **§2155-A. Standard of review by the Supreme Judicial Court**

34
35 The standard of review to be used by the Supreme Judicial
36 Court under this chapter is to determine whether the sentencing
37 judge or justice committed an abuse of discretion in imposing the
38 sentence that is being reviewed.

39
40 Sec. 4. 15 MRSA §2156, sub-§1-A, as enacted by PL 1991, c.
41 525, §4, is amended to read:

42
43 1-A. **Remand.** If the Supreme Judicial Court determines that
44 relief should be granted, it must remand the case to the court
45 that imposed the sentence for any further proceedings that could
46 have been conducted prior to the imposition of the sentence under
47 review and for resentencing on the basis of such further
48 proceedings ~~provided that the sentence is not more severe than~~
49 ~~the sentence appealed.~~

2 Sec. 5. 17-A MRSA §1152, sub-§§2-C and 2-D are enacted to read:

4 2-C. Full range of sentencing options. Except as otherwise
6 specifically provided in this code, the full range of sentencing
8 options provided for by this Part, including periods of
10 imprisonment up to and including the maximum periods as
12 established by section 1252, are available for imposition by a
 sentencing court for any criminal offense within a sentencing
 classification. A court may not establish or follow any
 additional or different system of classification of offenses for
 sentencing purposes, such as a tiered system.

14 2-D. Reservation of ranges impermissible. Except as
16 otherwise specifically provided in this code, a court may not
18 reserve sentences of imprisonment, whether suspended or
20 unsuspended, up to and including the statutorily specified
22 maximum for each classification of offense, for a specific type
 or manner of committing an offense within a sentencing
 classification. Sentences of imprisonment must be imposed by the
 sentencing court in a manner consistent with the purposes of
 sentencing as established by this chapter.

24

26 STATEMENT OF FACT

28 In 1988, the 113th Legislature enacted Public Law 1987,
30 chapter 808, which, as amended, doubled the maximum imprisonment
 penalty for Class A crimes from 20 years to 40 years.

32 The purpose of the 1988 changes was to increase the range of
34 periods of incarceration available to sentencing courts without
36 imposing minimum mandatory sentences. The purpose was to allow
38 judges to address a perceived increase in the seriousness of
 criminal acts being committed upon the citizens of the State.
 The intent of the law was to give the sentencing judges an
 ability to impose longer sentences upon career criminals and
 particularly violent criminals.

40 In a series of decisions, State v. Lewis, 590 A.2d 149
42 (1991), State v. Gosselin, 600 A.2d 1108 (1991), State v.
44 Michaud, 590 A.2d 538 (1991) and State v. Hewey, 622 A.2d 1151
46 (1993), the Maine Supreme Judicial Court misinterpreted the
48 intent of the legislation passed in 1988 and created a 2-tiered
 system of punishments for Class A crimes. The effect of these
 decisions has been to reduce the availability of meaningful
 sentences for career criminals and violent criminals.

2 The intent of this bill is to restore the original full
3 range of sentencing options to the sentencing courts and to
4 establish a standard of appellate review that is limited to a
5 review for an abuse of discretion by the original sentencing
6 judges. In addition, the Appellate Court in reviewing sentences
7 is given the right to review sentences upon appeal by the State.
8 This portion of the bill is intended to decrease the degree of
9 inequality in sentences by allowing the reviewing court to
10 consider both types of improper sentences when a lower court has
11 abused its discretion by imposing an illegal sentence or an
12 inappropriate sentence.

14 _____
16
18 This document has not yet been reviewed to determine the
19 need for cross-reference, stylistic and other technical
20 amendments to conform existing law to current drafting standards.