

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1856

H.P. 1382

House of Representatives, February 18, 2004

**An Act To Implement the Recommendations of the Commission To  
Improve the Sentencing, Supervision, Management and  
Incarceration of Prisoners**

(EMERGENCY)

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Reported by Representative GROSE of Woolwich for the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners pursuant to Public Law 2003, chapter 451, Part K, section 2 and Resolve, chapter 101, section 3.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** the Commission to Improve the Sentencing,  
Supervision, Management and Incarceration of Prisoners was  
8 established by the Legislature to examine the factors leading to  
prison overcrowding, the impact of current sentencing laws, the  
10 use of alternative sentences and the means to reduce recidivism,  
in particular recidivism caused by mental illness and substance  
abuse; and

12  
14           **Whereas,** the commission has submitted its report to the  
Legislature, including recommendations to apply immediate  
16 solutions to the factors contributing to jail and prison  
overcrowding; however, additional research and deliberation are  
18 necessary to examine the impact of current sentencing laws on  
prisoner populations, to address the issues of mental illness in  
the criminal justice system and to enhance juvenile delinquency  
20 prevention and diversion from the criminal justice system; and

22           **Whereas,** in order to continue the work of the commission and  
to address these compelling issues, an extension in its reporting  
24 deadline is required; and

26           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
28 Maine and require the following legislation as immediately  
30 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

34           **Sec. 1. PL 2003, c. 451, Pt. K, §2, sub-§1** is amended to read:

36           **1. Initial commission membership.** The commission consists  
of 17 initial members appointed as follows:

38           A. Two members of the Senate appointed by the President of  
40 the Senate;

42           B. Two members of the House of Representatives appointed by  
the Speaker of the House;

44           C. The Attorney General or a designee;

46           D. The Commissioner of the Department of Corrections or a  
48 designee;

2 E. The Commissioner of Behavioral and Developmental  
Services or a designee;

4 F. A representative of Adult Community Corrections  
6 appointed by the Commissioner of Corrections;

8 G. A representative of a statewide association of  
10 prosecutors nominated by the association and appointed by  
the Governor;

12 H. A representative of a statewide association of county  
14 commissioners nominated by the association and appointed by  
the Governor;

16 I. A representative of a statewide association of county  
18 sheriffs nominated by the association and appointed by the  
Governor;

20 J. A representative of a statewide association of criminal  
defense lawyers appointed by the Governor;

22 K. A member of the public appointed by the Governor; and

24 L. A representative of a statewide membership organization  
26 representing people with mental illness and their families  
appointed by the Governor.

28 The commission shall ask the Chief Justice of the Supreme  
30 Judicial Court to serve or name a designee to serve as a voting  
member of the commission and to appoint 2 trial judges or their  
32 designees to serve as voting members of the commission.

34 **Sec. 2. PL 2003, c. 451, Pt. K, §2, sub-§1-A is enacted to read:**

36 1-A. Additional members; appointments. In addition to the  
38 commission members in subsection 1, the commission includes 2  
members appointed as follows:

40 A. One member of the Senate appointed by the President of  
42 the Senate; and

44 B. One member of the House of Representatives appointed by  
the Speaker of the House.

46 Appointments must be made pursuant to this subsection no later  
48 than 15 days following adjournment of the Second Special Session  
of the 121st Legislature.

2           **Sec. 3. PL 2003, c. 451, Pt. K, §2, sub-§2** is amended to read:

4           **2. Appointments; chair; meetings.** All Except as provided  
6 in subsection 1-A, all appointments must be made no later than 30  
8 days following the effective date of this Act. The Governor  
10 shall appoint a chair from among the membership of the  
12 commission, who shall call and convene the first meeting of the  
commission no later than 15 days after appointments of all  
members. The commission may ~~hold a total of 6 meetings, one of~~  
~~which may be a public hearing~~ meet as often as necessary to  
complete its final report within authorized resources.

14           **Sec. 4. PL 2003, c. 451, Pt. K, §2, sub-§6** is amended to read:

16           **4. Staff assistance.** The ~~State-Planning-Office~~ Department  
18 of Corrections shall provide staffing assistance.

20           **Sec. 5. PL 2003, c. 451, Pt. K, §2, sub-§6** is amended to read:

22           **6. Initial report to address immediate needs.** The  
24 commission shall submit -a- an initial report that includes its  
26 findings and recommendations, including legislation, to the joint  
standing committee of the Legislature having jurisdiction over  
~~sentencing policies during the Second Regular Session of the~~  
~~121st Legislature~~ criminal justice and public safety matters no  
later than ~~December 3, 2003~~ February 2, 2004. The commission is  
authorized to introduce legislation related to its report to the  
Second Regular Session of the 121st Legislature at the time of  
30 submission of its report.

32           **Sec. 6. PL 2003, c. 451, Pt. K, §2, sub-§7** is enacted to read:

34           **7. Authorized duties; nonlapsing funds.** The commission is  
36 authorized to conduct any additional work authorized by law  
within its budgeted resources. Any unencumbered balance of  
38 General Fund appropriations originally appropriated to support  
the work of the commission that remain on June 30, 2004 within  
40 the Department of Corrections may not lapse but must be carried  
forward to June 30, 2005 to be used for the same purpose.

42           **Sec. 7. Final report to address long-term needs.** The Commission  
44 to Improve the Sentencing Supervision Management and  
Incarceration of Prisoners that was established in Public Law  
2003, chapter 451, Part K, section 2 shall submit a final report  
46 to address long-term needs that includes its findings and

2 recommendations, including legislation, to the joint standing  
committee of the Legislature having jurisdiction over criminal  
4 justice and public safety matters during the First Regular  
Session of the 122nd Legislature no later than January 1, 2005.

6 **Sec. 8. Retroactivity.** This Act applies retroactively to  
December 3, 2003.

8  
10 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.

12

## 14 SUMMARY

16 This bill is the recommendation of the Commission to Improve  
the Sentencing, Supervision, Management and Incarceration of  
18 Prisoners, which was created pursuant to Public Law 2003, chapter  
451. The bill adds 2 additional legislators to the membership of  
the commission and extends the initial reporting date of the  
20 commission to February 2, 2004. The bill also extends the life  
of the commission to January 1, 2005, authorizing additional  
22 meetings and a final report, including legislation, to the joint  
standing committee of the Legislature having jurisdiction over  
24 criminal justice and public safety matters. The bill also  
authorizes the commission to carry forward any remaining funds  
26 appropriated in fiscal year 2004-05.