

# 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)



# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

---

Legislative Document

No. 1903

H.P. 1409

House of Representatives, March 3, 2004

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

(EMERGENCY)

---

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 2003, 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           Whereas, state prisons and county jails are filled beyond  
6 available budgeted bed capacity; and

8           Whereas, this overcrowding imposes an imminent danger to  
the safety of inmates, corrections officers, law enforcement  
10 officers and the public; and

12           Whereas, this overcrowding is the direct cause of an  
escalation in the number of inmate suicides and in the type and  
14 number of injurious attacks on corrections officers, law  
enforcement officers and other inmates; and

16           Whereas, this overcrowding imposes a financial burden on  
18 Maine's taxpayers; and

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

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

28           **Sec. 1. 4 MRSA §422, sub-§1**, as enacted by PL 1999, c. 780,  
§1, is repealed and the following enacted in its place:

30           **1. Coordinator of Diversion and Rehabilitation Programs.**  
32 The judicial branch shall employ a Coordinator of Diversion and  
34 Rehabilitation Programs. The Coordinator of Diversion and  
36 Rehabilitation Programs is responsible for helping the judicial  
branch establish, staff, coordinate, operate and evaluate  
diversion and rehabilitation programs in the courts.

38           **Sec. 2. 4 MRSA §422, sub-§2**, as enacted by PL 1999, c. 780, §1  
and amended by PL 2001, c. 354, §3, is further amended to read:

40           **2. Pass-through services.** The Administrative Office of the  
42 Courts, with the assistance of the ~~Drug-Court~~ Coordinator of  
Diversion and Rehabilitation Programs, may enter into cooperative  
44 agreements or contracts with:

46           A. The Department of Behavioral and Developmental Services,  
Office of Substance Abuse or other federal-licensed  
48 treatment providers or state-licensed treatment providers to  
provide substance abuse services for alcohol and drug  
50 treatment program participants. To the extent possible, the

2 alcohol and drug treatment programs must access existing  
substance abuse treatment resources for alcohol and drug  
treatment program participants;

4  
6 B. The Department of Corrections, Division of Community  
Corrections or other appropriate organizations to provide  
for supervision of alcohol and drug treatment program  
8 participants;

10 C. The Department of Corrections or other appropriate  
organizations to provide for drug testing of alcohol and  
12 drug treatment program participants;

14 D. Appropriate organizations to provide for a drug court  
manager at each alcohol and drug treatment program location;  
16 and

18 E. Appropriate organizations and agencies for training of  
alcohol and drug treatment program staff and for evaluation  
20 of alcohol and drug treatment program operations;

22 F. Appropriate local, county and state governmental entities  
24 and other appropriate organizations and agencies to  
encourage the development of diversion and rehabilitation  
26 programs; and

28 G. Appropriate organizations and agencies for the provision  
of medical, educational, vocational, social and  
30 psychological services, training, counseling, residential  
care and other rehabilitative services designed to create,  
32 improve or coordinate diversion or rehabilitation programs.

34 **Sec. 3. 15 MRSA §1004**, as amended by PL 1999, c. 788, §1, is  
further amended to read:

36 **§1004. Applicability and exclusions**

38 This chapter applies to the setting of bail for a defendant  
in a criminal proceeding, including the setting of bail for an  
40 alleged contemnor in a plenary contempt proceeding involving a  
punitive sanction under the Maine Rules of Criminal Procedure,  
42 Rule 42 or the Maine Rules of Civil Procedure, Rule 66. It does  
not apply to the setting of bail in extradition proceedings under  
44 sections 201 to 229 or post-conviction review proceedings under  
sections 2121 to 2132, probation revocation proceedings under  
46 Title 17-A, sections 1205 to 1207 ~~or~~, supervised release  
revocation proceedings under Title 17-A, section 1233 or  
48 administrative release revocation proceedings under Title 17-A,  
sections 1349 to 1349-F, except to the extent and under the  
50 conditions stated in those sections. It does not apply to a  
deferred disposition under Title 17-A, chapter 54-F. This

chapter applies to the setting of bail for an alleged contemnor  
in a summary contempt proceeding involving a punitive sanction  
under the Maine Rules of Criminal Procedure, Rule 42 or the Maine  
Rules of Civil Procedure, Rule 66 and to the setting of bail  
relative to a material witness only as specified in sections 1103  
and 1104, respectively.

**Sec. 4. 17-A MRSA §15, sub-§1, ¶A,** as amended by PL 2003, c.  
102, §1, is further amended by amending sub-¶(6) to read:

(6) Theft as defined in section 357, when the value of  
the services is ~~\$1,000~~ \$3,000 or less if the officer  
reasonably believes that the person will not be  
apprehended unless immediately arrested;

**Sec. 5. 17-A MRSA §352, sub-§5, ¶D,** as amended by PL 2001, c.  
389, §2, is further amended to read:

D. If the value of property or services ~~cannot~~ can not be  
ascertained beyond a reasonable doubt pursuant to the  
standards set forth in paragraphs A to C, the trier of fact  
may find the value to be not less than a certain amount, and  
if no such minimum value can be thus ascertained, the value  
is deemed to be an amount less than ~~\$500~~ \$1,000.

**Sec. 6. 17-A MRSA §353, sub-§1, ¶B,** as amended by PL 2001, c.  
667, Pt. D, §3 and affected by §36, is further amended to read:

B. The person violates paragraph A and:

(1) The value of the property is more than \$10,000.  
Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive  
device. Violation of this subparagraph is a Class B  
crime;

(3) The person is armed with a dangerous weapon at the  
time of the offense. Violation of this subparagraph is  
a Class B crime;

(4) The value of the property is more than ~~\$1,000~~  
\$3,000 but not more than \$10,000. Violation of this  
subparagraph is a Class C crime;

(5) The value of the property is more than ~~\$500~~ \$1,000  
but not more than ~~\$1,000~~ \$3,000. Violation of this  
subparagraph is a Class D crime; or

2 (6) The person has 2 prior Maine convictions for any  
4 combination of the following: theft; any violation of  
6 section 401 in which the crime intended to be committed  
8 inside the structure is theft; any violation of section  
10 405 in which the crime intended to be committed inside  
the motor vehicle is theft; any violation of section  
651; any violation of section 702, 703 or 708; or  
attempts thereat. Section 9-A governs the use of prior  
convictions when determining a sentence. Violation of  
this subparagraph is a Class C crime.

12 **Sec. 7. 17-A MRSA §354, sub-§1, ¶B,** as amended by PL 2001, c.  
14 667, Pt. D, §4 and affected by §36, is further amended to read:

16 B. The person violates paragraph A and:

18 (1) The value of the property is more than \$10,000.  
Violation of this subparagraph is a Class B crime;

20 (2) The property stolen is a firearm or an explosive  
22 device. Violation of this subparagraph is a Class B  
crime;

24 (3) The person is armed with a dangerous weapon at the  
26 time of the offense. Violation of this subparagraph is  
a Class B crime;

28 (4) The value of the property is more than ~~\$1,000~~  
30 \$3,000 but not more than \$10,000. Violation of this  
subparagraph is a Class C crime;

32 (5) The value of the property is more than ~~\$500~~ \$1,000  
34 but not more than ~~\$1,000~~ \$3,000. Violation of this  
subparagraph is a Class D crime; or

36 (6) The person has 2 prior Maine convictions for any  
38 combination of the following: theft; any violation of  
40 section 401 in which the crime intended to be committed  
42 inside the structure is theft; any violation of section  
44 405 in which the crime intended to be committed inside  
the motor vehicle is theft; any violation of section  
651; any violation of section 702, 703 or 708; or  
attempts thereat. Section 9-A governs the use of prior  
convictions when determining a sentence. Violation of  
this subparagraph is a Class C crime.

46 **Sec. 8. 17-A MRSA §354-A, sub-§1, ¶B,** as amended by PL 2001,  
48 c. 667, Pt. D, §5 and affected by §36, is further amended to read:

2 B. The person violates paragraph A and:

2

(1) The value of the property is more than \$10,000.  
4 Violation of this subparagraph is a Class B crime;

4

6

(2) The property stolen is a firearm or an explosive  
device. Violation of this subparagraph is a Class B  
8 crime;

8

10

(3) The person is armed with a dangerous weapon at the  
time of the offense. Violation of this subparagraph is  
12 a Class B crime;

12

14

(4) The value of the property is more than ~~\$1,000~~  
\$3,000 but not more than \$10,000. Violation of this  
16 subparagraph is a Class C crime;

16

18

(5) The value of the property is more than ~~\$500~~ \$1,000  
but not more than ~~\$1,000~~ \$3,000. Violation of this  
20 subparagraph is a Class D crime; or

20

22

(6) The person has 2 prior Maine convictions for any  
combination of the following: theft; any violation of  
24 section 401 in which the crime intended to be committed  
inside the structure is theft; any violation of section  
26 405 in which the crime intended to be committed inside  
the motor vehicle is theft; any violation of section  
28 651; any violation of section 702, 703 or 708; or  
attempts thereat. Section 9-A governs the use of prior  
30 convictions when determining a sentence. Violation of  
this subparagraph is a Class C crime.

32

**Sec. 9. 17-A MRSA §356-A, sub-§1, ¶B**, as amended by PL 2001,  
34 c. 667, Pt. D, §6 and affected by §36, is further amended to read:

34

36

B. The person violates paragraph A and:

38

(1) The value of the property is more than \$10,000.  
Violation of this subparagraph is a Class B crime;

40

42

(2) The property stolen is a firearm or an explosive  
device. Violation of this subparagraph is a Class B  
crime;

44

46

(3) The person is armed with a dangerous weapon at the  
time of the offense. Violation of this subparagraph is  
a Class B crime;

48

- 2 (4) The value of the property is more than ~~\$1,000~~  
3 \$3,000 but not more than \$10,000. Violation of this  
4 subparagraph is a Class C crime;
- 6 (5) The value of the property is more than ~~\$500~~ \$1,000  
7 but not more than ~~\$1,000~~ \$3,000. Violation of this  
8 subparagraph is a Class D crime; or
- 10 (6) The person has 2 prior Maine convictions for any  
11 combination of the following: theft; any violation of  
12 section 401 in which the crime intended to be committed  
13 inside the structure is theft; any violation of section  
14 405 in which the crime intended to be committed inside  
15 the motor vehicle is theft; any violation of section  
16 651; any violation of section 702, 703 or 708; or  
17 attempts thereat. Section 9-A governs the use of prior  
18 convictions when determining a sentence. Violation of  
19 this subparagraph is a Class C crime.

20 **Sec. 10. 17-A MRSA §357, sub-§1, ¶B**, as amended by PL 2001, c.  
21 667, Pt. D, §7 and affected by §36, is further amended to read:

22 B. The person violates paragraph A and:

- 24 (1) The value of the services is more than \$10,000.  
25 Violation of this subparagraph is a Class B crime;
- 28 (2) The person is armed with a dangerous weapon at the  
29 time of the offense. Violation of this subparagraph is  
30 a Class B crime;
- 32 (3) The value of the services is more than ~~\$1,000~~  
33 \$3,000 but not more than \$10,000. Violation of this  
34 subparagraph is a Class C crime;
- 36 (4) The value of the services is more than ~~\$500~~ \$1,000  
37 but not more than ~~\$1,000~~ \$3,000. Violation of this  
38 subparagraph is a Class D crime; or
- 40 (5) The person has 2 prior Maine convictions for any  
41 combination of the following: theft; any violation of  
42 section 401 in which the crime intended to be committed  
43 inside the structure is theft; any violation of section  
44 405 in which the crime intended to be committed inside  
45 the motor vehicle is theft; any violation of section  
46 651; any violation of section 702, 703 or 708; or  
47 attempts thereat. Section 9-A governs the use of prior  
48 convictions when determining a sentence. Violation of  
49 this subparagraph is a Class C crime.



2           **Sec. 11. 17-A MRSA §357, sub-§2, ¶B**, as amended by PL 2001, c.  
667, Pt. D, §8 and affected by §36, is further amended to read:

4           B. The person violates paragraph A and:

6                   (1) The value of the services is more than \$10,000.  
Violation of this subparagraph is a Class B crime;

8                   (2) That person is armed with a dangerous weapon at  
10 the time of the offense. Violation of this  
subparagraph is a Class B crime;

12                   (3) The value of the services is more than ~~\$1,000~~  
14 \$3,000 but not more than \$10,000. Violation of this  
subparagraph is a Class C crime;

16                   (4) The value of the services is more than ~~\$500~~ \$1,000  
18 but not more than ~~\$1,000~~ \$3,000. Violation of this  
subparagraph is a Class D crime; or

20                   (5) The person has 2 prior Maine convictions for any  
22 combination of the following: theft; any violation of  
24 section 401 in which the crime intended to be committed  
inside the structure is theft; any violation of section  
26 405 in which the crime intended to be committed inside  
the motor vehicle is theft; any violation of section  
28 651; any violation of section 702, 703 or 708; or  
attempts thereat. Section 9-A governs the use of prior  
convictions when determining a sentence. Violation of  
30 this subparagraph is a Class C crime.

32           **Sec. 12. 17-A MRSA §358, sub-§1, ¶B**, as amended by PL 2001, c.  
667, Pt. D, §9 and affected by §36, is further amended to read:

34           B. The person violates paragraph A and:

36                   (1) The value of the property is more than \$10,000.  
38 Violation of this subparagraph is a Class B crime;

40                   (2) The property stolen is a firearm or an explosive  
42 device. Violation of this subparagraph is a Class B  
crime;

44                   (3) The person is armed with a dangerous weapon at the  
46 time of the offense. Violation of this subparagraph is  
a Class B crime;

48                   (4) The value of the property is more than \$2,000 and  
50 the person is a payroll processor. Violation of this  
paragraph is a Class B crime;

2 (5) The value of the property is more than ~~\$1,000~~  
3 \$3,000 but not more than \$10,000. Violation of this  
4 subparagraph is a Class C crime;

6 (6) The value of the property is more than ~~\$500~~ \$1,000  
7 but not more than ~~\$1,000~~ \$3,000. Violation of this  
8 subparagraph is a Class D crime;

10 (7) The value of the property is more than \$1,000 but  
11 not more than \$2,000 and the person is a payroll  
12 processor. Violation of this subparagraph is a Class C  
13 crime;

14 (8) The person is a payroll processor and has 2 prior  
15 Maine convictions for any combination of the  
16 following: theft; any violation of section 401 in  
17 which the crime intended to be committed inside the  
18 structure is theft; any violation of section 405 in  
19 which the crime intended to be committed inside the  
20 motor vehicle is theft; any violation of section 651;  
21 any violation of section 702, 703 or 708; or attempts  
22 thereat. Section 9-A governs the use of prior  
23 convictions when determining a sentence. Violation of  
24 this subparagraph is a Class B crime; or

26 (9) The person has 2 prior Maine convictions for any  
27 combination of the following: theft; any violation of  
28 section 401 in which the crime intended to be committed  
29 inside the structure is theft; any violation of section  
30 405 in which the crime intended to be committed inside  
31 the motor vehicle is theft; any violation of section  
32 651; any violation of section 702, 703 or 708; or  
33 attempts thereat. Section 9-A governs the use of prior  
34 convictions when determining a sentence. Violation of  
35 this subparagraph is a Class C crime.

38 **Sec. 13. 17-A MRSA §359, sub-§1, ¶B,** as amended by PL 2001, c.  
39 667, Pt. D, §10 and affected by §36, is further amended to read:

40 B. The person violates paragraph A and:

42 (1) The value of the property is more than \$10,000.  
43 Violation of this subparagraph is a Class B crime;

46 (2) The property stolen is a firearm or an explosive  
47 device. Violation of this subparagraph is a Class B  
48 crime;

- 2 (3) The person is armed with a dangerous weapon at the  
time of the offense. Violation of this subparagraph is  
a Class B crime;
- 4
- 6 (4) The value of the property is more than ~~\$1,000~~  
\$3,000 but not more than \$10,000. Violation of this  
subparagraph is a Class C crime;
- 8
- 10 (5) The value of the property is more than ~~\$500~~ \$1,000  
but not more than ~~\$1,000~~ \$3,000. Violation of this  
subparagraph is a Class D crime; or
- 12
- 14 (6) The person has 2 prior Maine convictions for any  
combination of the following: theft; any violation of  
section 401 in which the crime intended to be committed  
16 inside the structure is theft; any violation of section  
405 in which the crime intended to be committed inside  
18 the motor vehicle is theft; any violation of section  
651; any violation of section 702, 703 or 708; or  
20 attempts thereat. Section 9-A governs the use of prior  
convictions when determining a sentence. Violation of  
22 this subparagraph is a Class C crime.

24 **Sec. 14. 17-A MRSA §405, sub-§2**, as enacted by PL 1989, c.  
26 263, is amended to read:

28 2. Burglary of a motor vehicle is a Class C D crime.

30 **Sec. 15. 17-A MRSA §703, sub-§1, ¶¶A-1 and B-1**, as amended by  
PL 2001, c. 667, Pt. D, §13 and affected by §36, are further  
32 amended to read:

34 A-1. The person violates paragraph A and:

- 36 (1) The face value of the written instrument or the  
aggregate value of the instruments is more than  
38 \$10,000. Violation of this subparagraph is a Class B  
crime;
- 40 (2) The face value of the written instrument or the  
aggregate value of the instruments is more than ~~\$1,000~~  
42 \$3,000 but not more than \$10,000. Violation of this  
subparagraph is a Class C crime; or
- 44
- 46 (3) At the time of the forgery, the person has 2 prior  
convictions for any combination of the following:  
48 theft; violation or attempted violation of this  
section; any violation or attempted violation of  
section 401 if the intended crime within the structure  
50 is theft; any violation of section 405 in which the

2 crime intended to be committed inside the motor vehicle  
3 is theft; any violation or attempted violation of  
4 section 651; or any violation or attempted violation of  
5 section 702 or 708. Section 9-A governs the use of  
6 prior convictions when determining a sentence.  
7 Violation of this subparagraph is a Class C crime;

8 B-1. The person violates paragraph B and:

10 (1) The face value of the written instrument or the  
11 aggregate value of the instruments is more than  
12 \$10,000. Violation of this subparagraph is a Class B  
13 crime;

14 (2) The face value of the written instrument or the  
15 aggregate value of the instruments is more than ~~\$1,000~~  
16 \$3,000 but not more than \$10,000. Violation of this  
17 subparagraph is a Class C crime; or

18 (3) At the time of the forgery, the person has 2 prior  
19 convictions for any combination of the following:  
20 theft; violation or attempted violation of this  
21 section; any violation or attempted violation of  
22 section 401 if the intended crime within the structure  
23 is theft; any violation of section 405 in which the  
24 crime intended to be committed inside the motor vehicle  
25 is theft; any violation or attempted violation of  
26 section 651; or any violation or attempted violation of  
27 section 702 or 708. Section 9-A governs the use of  
28 prior convictions when determining a sentence.  
29 Violation of this subparagraph is a Class C crime.

30  
31 **Sec. 16. 17-A MRSA §708, sub-§1, ¶B,** as amended by PL 2001, c.  
32 667, Pt. D, §15 and affected by §36, is further amended to read:

33 B. The person violates paragraph A and:

34 (1) The face value of the written instrument or the  
35 aggregate value of the instruments is more than  
36 \$10,000. Violation of this subparagraph is a Class B  
37 crime;

38 (2) The face value of the written instrument or the  
39 aggregate value of the instruments is more than ~~\$1,000~~  
40 \$3,000 but not more than \$10,000. Violation of this  
41 subparagraph is a Class C crime;

2 (3) The face value of the negotiable instrument is  
more than \$500 ~~\$1,000~~ but not more than \$1,000 ~~\$3,000~~.  
Violation of this subparagraph is a Class D crime; or

4  
6 (4) At the time of negotiating a worthless instrument,  
the person has 2 prior convictions for any combination  
of the following: theft; violation or attempted  
8 violation of this section; any violation or attempted  
violation of section 401 if the intended crime within  
10 the structure is theft; any violation of section 405 in  
which the crime intended to be committed inside the  
12 motor vehicle is theft; any violation or attempted  
violation of section 651; or any violation or attempted  
14 violation of section 702 or 708. Section 9-A governs  
the use of prior convictions when determining a  
16 sentence. Violation of this subparagraph is a Class C  
crime.

18  
20 **Sec. 17. 17-A MRSA §755, sub-§1-A**, as repealed and replaced by  
PL 2001, c. 383, §91 and affected by §156, is repealed and the  
following enacted in its place:

22 1-A. A person is guilty of escape from intensive  
24 supervision imposed pursuant to chapter 52 if without official  
permission the person intentionally:

26 A. Fails to appear for work, for school or for a meeting  
28 with the person's Intensive Supervision Program officer.  
Violation of this paragraph is a Class D crime;

30 A-1. Violates a curfew, time or travel restriction.  
32 Violation of this paragraph is a Class C crime;

34 B. Violates paragraph A and at the time of the escape the  
36 person uses physical force against another person, threatens  
to use physical force or is armed with a dangerous weapon.  
38 Violation of this paragraph is a Class B crime; or

40 C. Violates paragraph A-1 and at the time of the escape the  
42 person uses physical force against another person, threatens  
to use physical force or is armed with a dangerous weapon.  
Violation of this paragraph is a Class B crime.

44 **Sec. 18. 17-A MRSA §755, sub-§1-B**, as repealed and replaced by  
46 PL 2001, c. 383, §92 and affected by §156, is repealed and the  
following enacted in its place:

2 1-B. A person is guilty of escape from supervised community  
3 confinement granted pursuant to Title 34-A, section 3036-A if  
4 without official permission the person intentionally:

5 A. Fails to appear for work, for school or for a meeting  
6 with that person's supervising officer. Violation of this  
7 paragraph is a Class D crime;

8 A-1. Fails to return to the correctional facility from  
9 which transfer was made upon the direction of the  
10 Commissioner of Corrections. Violation of this paragraph is  
11 a Class C crime;

12 A-2. Violates a curfew, residence, time or travel  
13 restriction. Violation of this paragraph is a Class C crime;

14 B. Violates paragraph A and at the time of the escape the  
15 person uses physical force against another person, threatens  
16 to use physical force or is armed with a dangerous weapon.  
17 Violation of this paragraph is a Class B crime;

18 C. Violates paragraph A-1 and at the time of the escape the  
19 person uses physical force against another person, threatens  
20 to use physical force or is armed with a dangerous weapon.  
21 Violation of this paragraph is a Class B crime; or

22 D. Violates paragraph A-2 and at the time of the escape the  
23 person uses physical force against another person, threatens  
24 to use physical force or is armed with a dangerous weapon.  
25 Violation of this paragraph is a Class B crime.

26 **Sec. 19. 17-A MRSA §1152, sub-§2, ¶H,** as amended by PL 1995,  
27 c. 136, §2, is further amended to read:

28 H. A county jail reimbursement fee as authorized by chapter  
29 54-B; or

30 **Sec. 20. 17-A MRSA §1152, sub-§2, ¶I,** as enacted by PL 1995, c.  
31 136, §3, is amended to read:

32 I. A specified number of hours of community service work as  
33 authorized by chapter 54-C; and

34 **Sec. 21. 17-A MRSA §1152, sub-§2, ¶¶J to L** are enacted to read:

35 J. Deferred disposition as authorized by chapter 54-F;

2 K. A fine, suspended in whole or in part, with, at the  
court's discretion, administrative release as authorized by  
4 chapter 54-G; or

6 L. A suspended term of imprisonment with administrative  
release as authorized by chapter 54-G.

8 **Sec. 22. 17-A MRSA §1175, sub-§1-A** is enacted to read:

10 1-A. Within 10 days of receipt of the victim's request for  
12 notification, the Department of Corrections, the state mental  
14 health institute or the county jail to which the defendant is  
16 committed shall notify the victim by mail of a telephone number  
18 or address of a publicly accessible site on the Internet that  
20 the victim can use to learn of the earliest possible date of the  
expiration of the defendant's sentence or, in the case of a split  
sentence, the earliest possible date of the completion of the  
unsuspended portion of the sentence or the earliest possible date  
of a discharge under Title 15, section 104-A.

22 **Sec. 23. 17-A MRSA §1201, sub-§1, ¶¶A-1 and A-2** are enacted to  
read:

24 A-1. The conviction is for a Class D or Class E crime other  
26 than any Class D crime in chapter 9; any Class D or Class E  
28 crime in chapter 11; the Class D crimes of sections 554,  
30 556, 758, 854 and 855; the Class D crime of Title 17,  
section 2924; and the Class D crime of Title 29-A, section  
2411, subsection 1-A, paragraph B;

32 A-2. The court sentences the person to a sentencing  
alternative under section 1152 that includes a period of  
34 administrative release;

36 **Sec. 24. 17-A MRSA §1202, sub-§1,** as repealed and replaced by  
PL 1985, c. 821, §5, is amended to read:

38 1. A person convicted of a Class A crime may be placed on  
40 probation for a period not to exceed 6 4 years; for a Class B or  
42 Class--C crime, for a period of probation not to exceed -4- 3  
44 years; and for a Class C crime, for a period of probation not to  
46 exceed 2 years; and for Class D and Class E crimes, for a period  
not to exceed one year, except that a person convicted under  
chapter 11 or section 854, excluding section 854, subsection 1,  
paragraph A, subparagraph (1), of a Class A crime may be placed  
on probation for a period not to exceed 6 years; for a Class B or  
Class C crime, for a period of probation not to exceed 4 years;

2 and for Class D and Class E crimes, for a period not to exceed  
3 one year.

4 **Sec. 25. 17-A MRSA §1202, sub-§2-A** is enacted to read:

6 2-A. On application of the probation officer, or of the  
7 person on probation, or on the court's own motion, the court may  
8 convert a period of probation for a Class D or Class E crime to a  
9 period of administrative release. A conversion to administrative  
10 release may not be ordered upon the motion of the person on  
11 probation unless notice of the motion is given to the probation  
12 officer by the person on probation. The provisions of chapter  
13 54-G apply when probation is converted to administrative  
14 release. Conversion to administrative release serves to relieve  
15 the person on probation of any obligations imposed by the  
16 probation conditions.

18 **Sec. 26. 17-A MRSA §1252, sub-§9** is enacted to read:

20 9. Whenever a mandatory minimum fine or period of  
21 imprisonment is required by law, the mandatory minimum sentence  
22 may be suspended if imposition of the mandatory minimum sentence  
23 would create substantial injustice and if the deviation from the  
24 mandatory minimum sentence neither diminishes the gravity of the  
25 offense nor adversely affects the safety of the public and would  
26 not frustrate the general purposes of sentencing set forth in  
27 section 1151. In deviating from the mandatory minimum sentence,  
28 the court shall consider all relevant factors, including:

30 A. The nature of the criminal act;

32 B. The defendant's prior record;

34 C. The recommendations of the victim or the victim's family  
35 and the prosecuting attorney;

36 D. The defendant's prospects for rehabilitation, credible  
37 demonstration of remorse and comprehension of the  
38 consequences of the defendant's actions; and

40 E. The age, background and physical and mental condition of  
41 the defendant, the defendant's family circumstances, and  
42 whether the criminal act was an isolated aberration in the  
43 life of the defendant.

46 **Sec. 27. 17-A MRSA §1253, sub-§2, ¶A** is enacted to read:

48 A. For any person who commits a crime on or after August 1,  
49 2004, is subsequently sentenced to a term of imprisonment  
50 for that crime and is entitled to receive a day-for-day



2 deduction pursuant to this subsection, up to 2 additional  
4 days per calendar month may be credited to that deduction if  
6 the person's conduct during that period of detention was  
8 such that the credit is determined to be warranted in the  
10 discretion of the chief administrative officer of the  
12 facility in which the person has previously been detained.

14 Credits under this paragraph must be calculated as follows  
16 for partial calendar months:

<u>Days of partial month</u>	<u>Maximum credit</u> <u>available</u>
<u>1 to 15 days</u>	<u>up to 1</u>
<u>16 to 31 days</u>	<u>up to 2</u>

18 The sheriff or other person required to furnish a statement  
20 showing the length of detention shall also furnish a  
22 statement showing the number of days credited pursuant to  
24 this paragraph.

26 Detention awaiting trial, during trial, post-trial awaiting  
28 sentencing or post-sentencing prior to the date on which a  
30 sentence commences to run is not punishment.

32 **Sec. 28. 17-A MRSA §1253, sub-§§9 to 11** are enacted to read:

34 9. Time may be deducted from a term of imprisonment as a  
36 result of conduct in accordance with this subsection.

38 A. For any person who commits a crime, other than murder or  
40 gross sexual assault, on or after August 1, 2004 and is  
42 subsequently sentenced to a term of imprisonment for that  
44 crime, up to 4 days per calendar month may be deducted from  
46 that term, calculated from the date of commencement of that  
48 term as specified under subsection 1, if that person's  
conduct during that month is such that the deduction is  
determined to be warranted in the discretion of the chief  
administrative officer of the state facility or the sheriff  
of the county jail.

Deductions under this paragraph must be calculated as  
follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction</u> <u>available</u>
<u>1 to 7 days</u>	<u>up to 1</u>
<u>8 to 15 days</u>	<u>up to 2</u>

2                   16 to 23 days                   up to 3  
                      24 to 31 days                   up to 4

4       B. For any person who commits a crime of murder or gross  
6       sexual assault on or after August 1, 2004 and is  
8       subsequently sentenced to a term of imprisonment for that  
10       crime, up to 2 days per calendar month may be deducted from  
12       that term, calculated from the date of commencement of that  
14       term as specified under subsection 1, if that person's  
16       conduct during that month is such that the deduction is  
18       determined to be warranted in the discretion of the chief  
20       administrative officer of the state facility or the sheriff  
22       of the county jail.

24       Deductions under this paragraph must be calculated as  
26       follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction</u> <u>available</u>
<u>1 to 15 days</u>	<u>up to 1</u>
<u>16 to 31 days</u>	<u>up to 2</u>

24       C. Any portion of the time deducted from the sentence of  
26       any person pursuant to this subsection may be withdrawn by  
28       the chief administrative officer of the state facility for a  
30       disciplinary offense or for the violation of any law of the  
32       State in accordance with Title 34-A, section 3032 and the  
34       rules adopted under that section, or by the sheriff of the  
36       county jail in accordance with jail disciplinary procedures.  
38       Deductions may be withdrawn for months already served or yet  
40       to be served by the person up to and including the maximum  
42       authorized for that sentence.

44       D. The chief administrative officer of the state facility  
46       or the sheriff of the county jail may restore any portion of  
48       deductions that have been withdrawn under paragraph C if the  
50       person's later conduct is such that the restoration is  
      determined to be warranted in the discretion of the chief  
      administrative officer or the sheriff.

10. Time may be deducted from a term of imprisonment as a  
      result of fulfillment of assigned responsibilities in accordance  
      with this subsection.

46       A. For any person who commits a crime on or after August 1,  
48       2004 and is subsequently sentenced to a term of imprisonment  
50       for that crime, up to an additional 3 days per calendar  
      month may be deducted from that term, calculated from the  
      date of commencement of that term as specified under  
      subsection 1, if that person's fulfillment of

2 responsibilities assigned in the person's transition plan  
3 for work, education or rehabilitation programs during that  
4 month is such that the deduction is determined to be  
5 warranted in the discretion of the chief administrative  
6 officer of the state facility or the sheriff of the county  
7 jail.

8 Deductions under this paragraph must be calculated as  
9 follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction</u> <u>available</u>
<u>1 to 10 days</u>	<u>up to 1</u>
<u>11 to 20 days</u>	<u>up to 2</u>
<u>21 to 31 days</u>	<u>up to 3</u>

18 B. In addition to the days of deduction provided for in  
19 paragraph A, for any person who commits a crime on or after  
20 August 1, 2004 and is subsequently sentenced to a term of  
21 imprisonment for that crime to a state facility, up to 2  
22 days per calendar month may also be deducted from that term,  
23 calculated from the date of commencement of that term as  
24 specified under subsection 1, if that person's fulfillment  
25 of responsibilities assigned in the person's transition plan  
26 for community work, education or rehabilitation programs  
27 during that month is such that the deduction is determined  
28 to be warranted in the discretion of the chief  
29 administrative officer of the state facility.

30 Deductions under this paragraph must be calculated as  
31 follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction</u> <u>available</u>
<u>1 to 15 days</u>	<u>up to 1</u>
<u>16 to 31 days</u>	<u>up to 2</u>

40 C. Any portion of the time deducted from the sentence of  
41 any person pursuant to this subsection may be withdrawn by  
42 the chief administrative officer of the state facility for a  
43 disciplinary offense or for the violation of any law of the  
44 State in accordance with Title 34-A, section 3032 and the  
45 rules adopted under that section, or by the sheriff of the  
46 county jail in accordance with jail disciplinary procedures.  
47 Deductions may be withdrawn for months already served or yet  
48 to be served by the person up to and including the maximum  
49 authorized for that sentence.

50

2 D. The chief administrative officer of the state facility  
4 or the sheriff of the county jail may restore any portion of  
6 deductions that have been withdrawn under paragraph C if the  
8 person's later conduct and fulfillment of responsibilities  
assigned in the person's transition plan for work, education  
or rehabilitation programs are such that the restoration is  
determined to be warranted in the discretion of the chief  
administrative officer or the sheriff.

10 11. Subsections 9 and 10 supersede subsections 3, 3-B, 4,  
12 5, 6 and 8 for persons who commit offenses on or after August 1,  
2004.

14 **Sec. 29. 17-A MRSA cc. 54-F and 54-G are enacted to read:**

16 **CHAPTER 54-F**

18 **DEFERRED DISPOSITION**

20 **§1348. Eligibility for deferred disposition**

22 A person who has pled guilty to a Class C, Class D or Class  
24 E crime, except a crime expressly providing that one or more  
26 punishment alternatives it authorizes may not be suspended, and  
who consents to a deferred disposition in writing, is eligible  
for a deferred disposition.

28 **§1348-A. Deferred disposition**

30 1. Following the acceptance of a plea of guilty for a crime  
32 for which a person is eligible for a deferred disposition under  
34 section 1348, the court may order sentencing deferred to a date  
36 certain or determinable and impose requirements upon the person,  
38 to be in effect during the period of deferment, considered by the  
court to be reasonable and appropriate to assist the person to  
lead a law-abiding life. The court-imposed deferment  
requirements must include a requirement that the person refrain  
from criminal conduct. In exchange for the deferred sentencing,  
the person shall abide by the court-imposed deferment  
requirements. Unless the court orders otherwise, the  
requirements are immediately in effect.

42 2. During the period of deferment and upon application of  
44 the person granted deferred disposition pursuant to subsection 1  
46 or of the attorney for the State or upon the court's own motion,  
48 the court may, after a hearing upon notice to the attorney for  
the State and the person, modify the requirements imposed by the  
court, add further requirements or relieve the person of any  
requirement imposed by the court that, in the court's opinion,  
50 imposes an unreasonable burden on the person.

2           3. During the period of deferment, bail does not apply.

4           **§1348-B. Court hearing as to final disposition**

6           1. Unless a court hearing is sooner held under subsection  
7           2, at the conclusion of the period of deferment, after notice, a  
8           person who was granted deferred disposition pursuant to section  
9           1348-A shall return to court for a hearing on final disposition.  
10          If the court finds that the person has complied with the  
11          court-imposed deferment requirements, the court shall impose a  
12          sentence of unconditional discharge under section 1346, unless  
13          the attorney for the State, prior to sentence imposition, moves  
14          the court to allow the person to withdraw the plea of guilty.  
15          Except over the objection of the defendant, the court shall grant  
16          the State's motion. Following the granting of the State's  
17          motion, the attorney for the State shall dismiss the pending  
18          charging instrument with prejudice. If the court finds that the  
19          person has inexcusably failed to comply with the court-imposed  
20          deferment requirements, the court shall impose a sentencing  
21          alternative authorized for the crime to which the person pled  
22          guilty.

24          2. If during the period of deferment the attorney for the  
25          State has probable cause to believe that a person who was granted  
26          deferred disposition pursuant to section 1348-A has violated a  
27          court-imposed deferment requirement, the attorney for the State  
28          may move the court to terminate the remainder of the period of  
29          deferment and impose sentence. Following notice and hearing, if  
30          the court finds by a preponderance of the evidence that the  
31          person has inexcusably failed to comply with a court-imposed  
32          deferment requirement, the court may continue the running of the  
33          period of deferment with the requirements unchanged, modify the  
34          requirements, add further requirements or terminate the running  
35          of the period of deferment and impose a sentencing alternative  
36          authorized for the crime to which the person pled guilty. If the  
37          court finds that the person has not inexcusably failed to comply  
38          with a court-imposed deferment requirement, the court may order  
39          that the running of the period of deferment continue or, after  
40          notice and hearing, take any other action permitted under this  
41          chapter.

42          3. A hearing under this section or section 1348-A must be  
43          held in the court that ordered the deferred disposition. The  
44          hearing need not be conducted by the justice or judge who  
45          originally ordered the deferred disposition.

46          4. The person at a hearing under this section or section  
47          1348-A must be afforded the opportunity to confront and  
48          cross-examine witnesses against the person, to present evidence  
49          in his or her own defense, and to be represented by counsel.  
50

2 on that person's own behalf and to be represented by counsel. If  
3 the person who was granted deferred disposition pursuant to  
4 section 1348-A can not afford counsel, the court shall appoint  
5 counsel for the person. Assignment of counsel and withdrawal of  
6 counsel must be in accordance with the Maine Rules of Criminal  
7 Procedure.

8 5. A summons must be used to order a person who was granted  
9 deferred disposition pursuant to section 1348-A to appear for a  
10 hearing under this section. If the person can be located and  
11 served with a summons, the attorney for the State may not  
12 commence a hearing under this section by having the person  
13 arrested, except that a person who fails to appear as required  
14 may be arrested pursuant to a bench warrant or an order of arrest.

15 6. If a person who was granted deferred disposition pursuant  
16 to section 1348-A can not, with due diligence, be located, the  
17 attorney for the State shall file a written notice of this fact  
18 with the court that ordered the deferred disposition. If the  
19 hearing is for a final disposition at the conclusion of the  
20 period of deferment, and the person fails to appear at that  
21 hearing, the person may be arrested pursuant to a bench warrant  
22 or an order of arrest. If the hearing is to determine whether  
23 the person has inexcusably failed to comply with a court-imposed  
24 deferment requirement, the attorney for the State shall apply for  
25 a warrant of arrest in accordance with Rule 41 of the Maine Rules  
26 of Criminal Procedure.

27 **§1348-C. Limited review by appeal**

28  
29  
30  
31 A person is precluded from seeking to attack the legality of  
32 a deferred disposition, including a final disposition, except  
33 that a person who has been determined by a court to have  
34 inexcusably failed to comply with a court-imposed deferment  
35 requirement and thereafter has been sentenced to an alternative  
36 authorized for the crime may appeal to the Law Court, but not as  
37 of right. The time for taking the appeal and the manner and any  
38 conditions for the taking of the appeal are as the Supreme  
39 Judicial Court provides by rule.

40  
41 **CHAPTER 54-G**

42 **ADMINISTRATIVE RELEASE**

43 **§1349. Eligibility for sentence alternative that includes**  
44 **period of administrative release**

45  
46  
47 A person who has been convicted of a Class D or Class E  
48 crime may be sentenced to a sentence alternative under section  
49 1152 that includes a period of administrative release, unless:  
50

2           A. The statute that the person is convicted of violating  
4           expressly provides that the fine and imprisonment penalties  
6           it authorizes may not be suspended, in which case the  
            convicted person must be sentenced to the imprisonment and  
            required to pay the fine authorized therein;

8           B. The court sentences the person to a sentencing  
10          alternative under section 1152 that includes a period of  
            probation; or

12          C. The court finds that such a sentence would diminish the  
14          gravity of the crime for which that person was convicted.

16          **§1349-A. Period of administrative release**

18           1. A person who has been convicted of a Class D or Class E  
20           crime may be placed on administrative release for a period not to  
            exceed one year.

22           2. During the period of administrative release and upon  
24           application of a person placed on administrative release or of  
26           the attorney for the State or upon the court's own motion, the  
28           court may, after a hearing upon notice to the attorney for the  
            State and the person, modify the requirements imposed by the  
            court, add further requirements or release the person of any  
            requirement imposed by the court that, in the court's opinion,  
            imposes on the person an unreasonable burden.

30           3. On application of the attorney for the State or of the  
32           person placed on administrative release or on the court's own  
34           motion, the court may terminate a period of administrative  
36           release and discharge the convicted person at any time earlier  
38           than that provided in the sentence made pursuant to subsection 1  
40           if warranted by the conduct of such person. The court may not  
42           order a termination of the period of administrative release and  
            discharge upon the motion of the person placed on administrative  
            release unless notice of the motion is given to the attorney for  
            the State by the person placed on administrative release. The  
            termination of the period of administrative release and discharge  
            relieves the person placed on administrative release of any  
            obligations imposed by the sentence of administrative release.

44           4. A justice, in order to comply with section 1256,  
46           subsection 8, may terminate a period of administrative release  
48           that would delay commencement of a consecutive unsuspended term  
50           of imprisonment. A judge may terminate a period of  
            administrative release that would delay commencement of a  
            consecutive unsuspended term of imprisonment if that judge has  
            jurisdiction over each of the sentences involved.

2       **§1349-B. Suspended sentence with administrative release**

4           1. The court may sentence a person to a term of  
6           imprisonment not to exceed the maximum term authorized for the  
8           Class D or Class E crime, suspend the entire term of imprisonment  
          and accompany the suspension with a period of administrative  
          release not to exceed the one year authorized under section  
          1349-A, subsection 1.

10

2. The court may sentence a person to a fine, not to exceed  
12           the maximum fine authorized for the Class D or Class E crime,  
          suspend the fine in whole or in part and accompany the suspension  
14           with a period of administrative release not to exceed the one  
          year authorized under section 1349-A, subsection 1.

16

3. A sentence imposed under subsection 1 or subsection 2  
18           commences on the date the person goes into actual execution of  
          the sentence.

20

22       **§1349-C. Requirements of administrative release**

22

1. If the court imposes a suspended sentence with  
24           administrative release under section 1349-B, the court shall  
          attach requirements of administrative release, as authorized by  
26           this section, as the court determines to be reasonable and  
          appropriate to help ensure accountability of the person. The  
28           court-imposed requirements of administrative release must include  
          a requirement that the convicted person refrain from criminal  
30           conduct.

32

2. In addition to a requirement that the convicted person  
          refrain from criminal conduct and a requirement that the  
34           convicted person pay all assessments, surcharges, fees and costs  
          required by law, the court in its sentence may require the  
36           convicted person:

38

A. To pay any fine imposed by the court as part of the  
          sentence;

40

B. To make any restitution to each victim of the crime  
42           imposed by the court;

42

C. To perform any community service work imposed by the  
44           court as part of the sentence; or

46

D. To satisfy any other requirement reasonably related to  
48           helping ensure the accountability of the person.

48



2 3. The convicted person must be given an opportunity to  
3 address the court on the requirements that are proposed to be  
4 attached and must, after the sentencing, be given a written  
5 statement setting forth the specific requirements on which the  
6 person is being administratively released.

7 **§1349-D. Commencement of administrative release revocation**  
8 **proceeding**

10 1. If during the period of administrative release the  
11 attorney for the State has probable cause to believe that the  
12 person placed on administrative release has violated a  
13 requirement of administrative release, the attorney for the State  
14 may file a motion with the court seeking to revoke administrative  
15 release and cause a summons to be delivered to the person placed  
16 on administrative release ordering that person to appear for a  
17 court hearing on the alleged violation. The motion must set  
18 forth the facts underlying the alleged violation. The summons  
19 must be in the same form as a summons under section 1205-B,  
20 subsection 2 except that the summons must include the signature  
21 of a law enforcement officer other than a probation officer.

22 2. A person placed on administrative release appearing on a  
23 motion to revoke administrative release pursuant to a summons  
24 must be afforded an initial appearance as provided in section  
25 1205-C, subsection 4.

26 3. If the person placed on administrative release fails to  
27 appear in court after having been served with a summons, the  
28 court may issue a warrant for the arrest of the person. After  
29 arrest of the person, the court shall afford the person a  
30 preliminary hearing as provided in section 1205, subsection 4,  
31 and, if retained in custody, section 1205-C, subsection 3 applies.

32 4. If the person placed on administrative release can be  
33 located and served a summons, the attorney for the State may not  
34 commence the administrative release proceeding by having the  
35 person arrested. However, if the person can not, with due  
36 diligence, be located, the attorney for the State shall file a  
37 written notice of this fact with the court and obtain a warrant  
38 of arrest under Rule 41 of the Maine Rules of Criminal  
39 Procedure. Unless sooner released, the court shall provide the  
40 person with an initial appearance on the revocation of  
41 administrative release within 14 days after arrest. A copy of  
42 the motion must be furnished to the person prior to or at the  
43 initial appearance. The initial appearance is as provided in  
44 section 1205-C, subsection 4. Bail is as provided in section  
45 1205-C, subsections 5 and 6.

46 **§1349-E. Court hearing on administrative release revocation**  
47

2           The hearing on a motion to revoke administrative release is  
4 as provided under section 1206, except that subsections 7-B and 9  
do not apply.

6           **§1349-F. Review**

8           Review of a revocation of administrative release pursuant to  
10 section 1349-E must be by appeal. The appeal is as provided  
under section 1207.

12           **Sec. 30. 34-A MRSA §1210-A, sub-§5**, as enacted by PL 1997, c.  
14 753, §2, is amended to read:

16           **5. Community Corrections Program Account.** Each county  
18 treasurer shall place 20% of the funds received from the  
20 department pursuant to this section into a separate community  
corrections program account. Funds placed in this account may be  
used only for adult or juvenile community corrections as defined  
in subsection 1.

22           A. Those counties that demonstrate to the department that  
24 at least 50% of the community corrections funds received are  
expended for the purposes of community corrections as  
26 defined in subsection 1 are eligible to receive an  
additional 8% increase in funds received pursuant to this  
28 section to be used as defined in subsection 1.

30           B. If a county does not comply with the requirement in this  
32 subsection, that county's allocation of community  
corrections funds for the next year must be reduced by an  
34 amount equal to the amount of funds not spent by that county  
on adult or juvenile community corrections as defined in  
36 subsection 1. Funds from the reduced allocation to counties  
in noncompliance must be redistributed to counties that use  
the funds as described in paragraph A.

38           **Sec. 31. PL 2003, c. 451, Pt. K, §2, sub-§6** is amended to read:

40           **6. Initial report to address immediate needs.** The  
42 commission shall submit -a- an initial report that includes its  
44 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~~  
46 ~~121st Legislature~~ criminal justice and public safety matters no  
48 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  
submission of its report.

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

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

12           **Sec. 33. Addressing mental illness in prisons and jails.** No later  
14 than April 1, 2004, the Department of Corrections and the  
16 Department of Behavioral and Developmental Services shall develop  
18 a joint plan of action to address mental illness in the criminal  
20 justice community. In developing the plan the departments shall  
22 invite the Maine Sheriffs' Association to participate. The plan  
24 will be delivered to the Commission to Improve the Sentencing,  
26 Supervision, Management and Incarceration of Prisoners.

22           **Sec. 34. Legislative intent; moratorium on changes to Maine**  
24 **Criminal Code.** It is the intent of the Legislature that, from  
26 the effective date of this Act for a period of one year, no  
28 amendments to the Maine Revised Statutes, Title 17-A may take  
30 effect in order that the impact of sentencing on inmate  
32 populations may be adequately studied and that other actions to  
34 alleviate the current overcrowding crisis faced in state prisons  
and county jails may occur except for any amendments to the Maine  
Criminal Code as recommended by the Commission to Improve  
Community Safety and Sex Offender Accountability. The Legislature  
further intends that any such amendments that are enacted into  
law that conflict with this intent during the year-long  
moratorium should be given no effect by State Government,  
including the Judicial Department.

36           **Sec. 35. Impacts of sentencing and minimum mandatory sentences.**  
38 The Commission to Improve the Sentencing, Supervision, Management  
40 and Incarceration of Prisoners, referred to in this section as  
42 "the commission," which was established in Public Law 2003,  
44 chapter 451, Part K, section 2, shall undertake a study to  
46 determine the impacts of Maine's sentencing laws on inmate  
48 population. As part of this study, the commission shall identify  
changes in Maine's sentencing laws over time, identify new laws,  
assess how sentencing practices have changed and determine the  
impact of sentencing on inmate population and on state and county  
budgets. The commission shall undertake this work within its  
existing resources should those resources allow.

2 The Criminal Law Advisory Commission shall assist the commission  
in its work by providing to the commission a review of all  
4 minimum mandatory sentences and shall propose amending any  
minimum mandatory sentences that it considers no longer  
6 necessary. The Criminal Law Advisory Commission shall also  
examine the State's sentencing ranges and propose increased  
8 differentiation within ranges. The Criminal Law Advisory  
Commission shall report its findings and recommendations,  
10 including proposed legislation, to the commission no later than  
September 30, 2004.

12 The commission is authorized to introduce legislation related to  
sentencing to the First Regular Session of the 122nd Legislature.

14 **Sec. 36. Review of probation caseload.** No later than July 1,  
16 2004, the Department of Corrections, Adult Community Services  
Division shall direct each probation officer to review that  
18 officer's own caseload to identify and proceed with those cases  
appropriate for early termination. An application for early  
20 termination must include the reasons for recommending early  
termination. The victim and the prosecuting attorney must be  
22 notified of the filing of the application. Judges and  
prosecutors are urged to give deference to these applications.  
24 The department shall report to the joint standing committee of  
the Legislature having jurisdiction over criminal justice and  
26 public safety matters by February 1, 2005 on the numbers of  
applications for early termination that were filed, the number of  
28 cases that were reviewed by the court and the number of cases  
terminated from July 1, 2004 to December 31, 2004.

30 **Sec. 37. Appropriations and allocations.** The following  
32 appropriations and allocations are made.

34 **CORRECTIONS, DEPARTMENT OF**

36 **Charleston Correctional Facility**

38 Initiative: Provides funds to increase the capacity to provide  
some relief for overcrowded conditions and correctional staff  
40 working overtime. Funding will allow the opening of 50 beds at  
the Charleston Correctional Facility.

42	<b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
44	Positions - Legislative Count	(0.000)	(15.000)
46	Personal Services	\$0	\$864,806
	All Other	0	126,876
48	General Fund Total	<u>\$0</u>	<u>\$991,682</u>

50 **Maine Correctional Center**

2 Initiative: Provides funds to increase the capacity to provide  
 4 some relief for overcrowded conditions and correctional staff  
 6 working overtime. Funding will allow the opening of 30 beds at  
 the Maine Correctional Center.

8 <b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
10 Positions - Legislative Count	(0.000)	(9.000)
12 Personal Services	\$0	\$514,617
14 All Other	0	90,248
	<hr/>	<hr/>
16 General Fund Total	\$0	\$604,865

18 **Maine State Prison**

20 Initiative: Provides funds to increase the capacity to provide  
 22 some relief for overcrowded conditions and correctional staff  
 24 working overtime. Funding will allow the opening of 32 beds at  
 26 the Maine State Prison.

22 <b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
24 Positions - Legislative Count	(0.000)	(14.000)
26 Personal Services	\$0	\$778,774
28 All Other	0	11,635
	<hr/>	<hr/>
30 General Fund Total	\$0	\$800,409

32 **Adult Community Corrections**

34 Initiative: Provides for the appropriation of funds to establish  
 36 2 Resource Coordinator positions and related All Other expenses.

34 <b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
36 Positions - Legislative Count	(0.000)	(2.000)
38 Personal Services	\$0	\$136,842
40 All Other	0	25,542
	<hr/>	<hr/>
42 General Fund Total	\$0	\$162,384

44 **CORRECTIONS, DEPARTMENT OF**  
 46 **DEPARTMENT TOTALS**

	<b>2003-04</b>	<b>2004-05</b>
48 <b>GENERAL FUND</b>	<b>\$0</b>	<b>\$2,559,340</b>
	<hr/>	<hr/>
50 <b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$2,559,340</b>

52 **Sec. 38. Appropriations and allocations.** The following  
 54 appropriations and allocations are made.

2 **CORRECTIONS, DEPARTMENT OF**

4 **County Jail Prisoner Support and Community Corrections Fund**

6 Initiative: Provides funds to be used in accordance with the  
Maine Revised Statutes, Title 34-A, section 1210-A, subsection 5,  
paragraphs A and B.

8

10 <b>General Fund</b>	<b>2003-04</b>	<b>2004-05</b>
10 All Other	\$0	\$96,000
12 General Fund Total	<u>\$0</u>	<u>\$96,000</u>

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

18 **SUMMARY**

20 This bill is the recommendation of the Commission to Improve  
the Sentencing, Supervision, Management and Incarceration of  
22 Prisoners, which was established pursuant to Public Law 2003,  
chapter 451. The bill does the following.

24 1. It expands the responsibility of the Judicial Branch's  
26 Drug Coordinator to include all criminal diversion programs and  
changes the title of the position to "Coordinator of Diversion  
28 and Rehabilitation Programs."

30 2. It increases the monetary threshold for classification  
of theft crimes for Class C and Class D crimes, including the  
32 crimes of forgery and negotiating a worthless instrument.

34 3. It decreases from a Class C to a Class D crime burglary  
of a motor vehicle.

36 4. It decreases from a Class C to a Class D crime an  
38 inmate's failure to appear for work, school or a meeting with the  
inmate's supervising officer while the inmate is on intensive  
40 supervision or supervised community confinement.

42 5. It creates 2 new sentencing alternatives, deferred  
disposition and administrative release, and authorizes the court  
44 to convert probation to administrative release.

46 6. It restricts the use of probation for Class D and Class  
E crimes to only those crimes involving domestic violence, sex  
48 offenses and repeat OUI offenses.

2 7. It reduces for all crimes, except those under the Maine  
4 Revised Statutes, Title 17-A, chapter 11 and Title 17-A, section  
6 854, excluding subsection 1, paragraph A, subparagraph (1) of  
that section, the length of time a person may be sentenced to  
probation to 4 years for a Class A crime, 3 years for a Class B  
crime and 2 years for a Class C crime.

8 8. It grants the sentencing court the authority to deviate  
10 from a mandatory minimum sentence and mandatory minimum fine in  
12 those circumstances when the court determines that the mandatory  
14 fine or sentence would create a substantial injustice and the  
deviation would not diminish the gravity of the offense or  
adversely affect the public safety. The court must consider  
specific factors before deviating from the mandatory minimum.

16 9. It requires a notice of a defendant's release sent to a  
18 victim to include a phone number or address of a publicly  
20 accessible site on the Internet so the victim can learn the  
earliest possible date of the expiration of the imprisonment  
portion of the defendant's sentence.

22 10. It provides that a person who is entitled to a  
24 deduction from that person's sentence for time spent in detention  
26 may be given additional detention credit for good behavior during  
the time spent in detention.

28 11. It increases the amount of good behavior good time that  
30 may be awarded from 2 to 4 days, except for persons convicted of  
gross sexual assault or murder.

32 12. It expands the concept of good time earned for work to  
34 include good time earned for education and rehabilitation and  
increases the amount that may be awarded from 3 to 5 days for  
prisoners in state facilities participating in community programs.

36 13. It rewards counties that use 50% of their community  
38 corrections program funding on diversion programs by reallocating  
40 funds from counties that do not comply with the requirement to  
use 20% of their funds on community corrections programs.

42 14. It directs the Department of Behavioral and  
44 Developmental Services, the Department of Corrections and county  
sheriffs to develop a joint plan of action to address mental  
illness in the criminal justice community.

46 15. It places a moratorium on any amendments to the Maine  
48 Criminal Code with the exception of changes recommended by the  
50 Commission to Improve Community Safety and Sex Offender  
Accountability.

2           16. It directs the Commission to Improve the Sentencing,  
Supervision, Management and Incarceration of Prisoners to  
4 undertake a study to determine the impacts of Maine's sentencing  
laws on inmate population and directs the Criminal Law Advisory  
6 Commission to assist the Commission to Improve the Sentencing,  
Supervision, Management and Incarceration of Prisoners with a  
8 review of all minimum mandatory sentences and to propose amending  
any it finds are no longer necessary. It gives the Commission to  
10 Improve the Sentencing, Supervision, Management and Incarceration  
of Prisoners authority to introduce legislation to the First  
Regular Session of the 122nd Legislature.

12  
14           17. It directs the Department of Corrections to maximize  
early termination of probation under current law, with  
appropriate victim notice, and urges judges to give deference to  
16 applications for early termination of probation.

18           18. It appropriates funding to carry out the purposes of  
this bill.