

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1407

H.P. 1022

House of Representatives, March 26, 2019

An Act To Revise and Recodify Certain Provisions of the Maine Criminal Code

(EMERGENCY)

Reported by Representative WARREN of Hallowell for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2. Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

1 **4. Provide notice of nature of sentences that may be imposed.** Give fair warning
2 of the nature of the sentences that may be imposed on the conviction of a crime;

3 **5. Eliminate inequalities in sentences.** Eliminate inequalities in sentences that are
4 unrelated to legitimate criminological goals;

5 **6. Encourage just individualization of sentences.** Encourage differentiation
6 among persons with a view to a just individualization of sentences;

7 **7. Elicit cooperation of individuals through correctional programs.** Promote the
8 development of correctional programs that elicit the cooperation of convicted individuals;

9 **8. Permit sentences based on factors of crime committed.** Permit sentences that
10 do not diminish the gravity of offenses, with reference to the factors, among others, of:

11 **A. The age of the victim, particularly of a victim of an advanced age or of a young**
12 **age who has a reduced ability to self-protect or who suffers more significant harm**
13 **due to age; and**

14 **B. The selection by the person of the victim or of the property that was damaged or**
15 **otherwise affected by the crime because of the race, color, religion, sex, ancestry,**
16 **national origin, physical or mental disability, sexual orientation or homelessness of**
17 **the victim or of the owner or occupant of that property; and**

18 **9. Recognize domestic violence and certified batterers' intervention programs.**
19 **Recognize domestic violence as a serious crime against the individual and society and to**
20 **recognize batterers' intervention programs certified pursuant to Title 19-A, section 4014**
21 **as the most appropriate and effective community intervention in cases involving domestic**
22 **violence.**

23 **§1502. Authorized sentences**

24 **1. Sentences imposed on individuals and organizations.** Every person convicted
25 of a crime must be sentenced in accordance with the provisions of this Part.

26 **2. Sentencing alternatives for individuals.** The court shall sentence an individual
27 convicted of a crime to at least one of the following sentencing alternatives:

28 **A. Unconditional discharge as authorized by chapter 73;**

29 **B. A split sentence of imprisonment with probation as authorized by chapter 67,**
30 **subchapter 1;**

31 **C. A fine, suspended in whole or in part, with, at the court's discretion, probation as**
32 **authorized by chapter 67, subchapter 1;**

33 **D. A suspended term of imprisonment with probation as authorized by chapter 67,**
34 **subchapter 1;**

35 **E. A term of imprisonment as authorized by chapter 63;**

36 **F. A fine as authorized by chapter 65, subchapter 1, which may be imposed in**
37 **addition to the sentencing alternatives in paragraphs B, D, E, G, H, J, K and L;**

- 1 G. A county jail reimbursement fee as authorized by section 1751;
- 2 H. A specified number of hours of community service work as authorized by chapter
- 3 71;
- 4 I. A fine, suspended in whole or in part, with, at the court's discretion, administrative
- 5 release as authorized by chapter 67, subchapter 2;
- 6 J. A suspended term of imprisonment with administrative release as authorized by
- 7 chapter 67, subchapter 2;
- 8 K. A split sentence of imprisonment with administrative release as authorized by
- 9 chapter 67, subchapter 2; or
- 10 L. A term of imprisonment followed by a period of supervised release as authorized
- 11 by chapter 67, subchapter 3.

12 **3. Deferred disposition.** The court may accept a plea agreement between the

13 attorney for the State and the defendant that provides for an agreed-upon authorized

14 sentencing alternative the imposition of which is deferred in accordance with chapter 67,

15 subchapter 4.

16 **4. Restitution by individuals.** The court may require an individual convicted of a

17 crime to make restitution as authorized by chapter 69. Subject to the limitations of

18 chapter 69, restitution may be imposed as a condition of probation or may be imposed in

19 addition to any other sentencing alternative included within subsection 2 with the

20 exception of an unconditional discharge.

21 **5. Consideration of sentencing alternative involving fine for individuals.** Except

22 when specifically precluded, in choosing the appropriate punishment for an individual

23 convicted of a crime, the court shall consider imposing a sentencing alternative involving

24 a fine either in conjunction with or in lieu of imposing a sentencing alternative involving

25 imprisonment.

26 **6. Consideration of substance use disorder treatment for individuals convicted**

27 **of Class D drug offense.** In choosing the appropriate punishment for an individual

28 convicted of a Class D drug offense, the court shall consider imposing a sentencing

29 alternative that includes medical and mental health treatment for substance use disorder,

30 when appropriate.

31 **7. Sentencing alternatives for organizations.** The court shall sentence an

32 organization convicted of a crime to at least one of the following sentencing alternatives:

- 33 A. Unconditional discharge as authorized by chapter 73;
- 34 B. A fine, suspended in whole or in part, with probation as authorized by chapter 67,
- 35 subchapter 1;
- 36 C. A fine as authorized by chapter 65, subchapter 1;
- 37 D. A sanction authorized by section 1503, which may be imposed in addition to the
- 38 sentencing alternatives in paragraphs B, C and E; or

1 E. A fine, suspended in whole or in part, with administrative release as authorized by
2 chapter 67, subchapter 2.

3 **8. Restitution by organizations.** The court may require an organization convicted
4 of a crime to make restitution as authorized by chapter 69. Subject to the limitations of
5 chapter 69, restitution may be imposed as a condition of probation or may be imposed in
6 addition to any other sentencing alternative included within subsection 7, with the
7 exception of an unconditional discharge.

8 **9. Other authority of court, Department of Corrections and jails.** The provisions
9 of this chapter do not deprive the court of any authority conferred by law to decree a
10 forfeiture of property, suspend or cancel a license, remove a person from office or impose
11 any other civil penalty. An appropriate order exercising such authority may be included
12 as part of the judgment of conviction. The provisions of this chapter do not affect the
13 authority of the Department of Corrections or a county jail granted by statute or the
14 authority to transfer individuals from one facility to another by agreement.

15 **§1503. Sanctions for organizations**

16 **1. Notice to those interested in or affected by conviction.** If an organization is
17 convicted of a crime, the court may, in addition to or in lieu of imposing other authorized
18 penalties, sentence the organization to give appropriate publicity to the conviction by
19 notice to the class or classes of persons or sector of the public interested in or affected by
20 the conviction, by advertising in designated areas or by designated media or otherwise as
21 the court may direct. Failure of the organization to provide the notice required by the
22 court may be punishable as contempt of court.

23 **2. Disqualification from holding office.** If a director, trustee or managerial agent of
24 an organization is convicted of a Class A or Class B crime committed on behalf of the
25 organization, the court may include in the sentence an order disqualifying that individual
26 from holding office in the same or another organization for a period not exceeding 5
27 years, if the court finds that the scope or nature of that individual's illegal actions makes it
28 dangerous or inadvisable for such office to be entrusted to that individual.

29 **3. Deferred disposition.** The court may accept a plea agreement between the
30 attorney for the State and the defendant that provides for an agreed-upon authorized
31 sentencing alternative the imposition of which is deferred in accordance with chapter 67,
32 subchapter 4.

33 **4. Supplementary proceedings for damages.** Prior to the imposition of sentence,
34 the court may direct the Attorney General, a district attorney or any other attorney
35 specially designated by the court to institute supplementary proceedings in the case in
36 which the organization was convicted of the crime to determine, collect and distribute
37 damages to persons in the class that the statute was designed to protect who suffered
38 injuries by reason of the crime, if the court finds that the multiplicity of small claims or
39 other circumstances make restitution by individual suit impractical. Such supplementary
40 proceedings must be pursuant to rules adopted by the Supreme Judicial Court for this
41 purpose. The court in which proceedings authorized by this subsection are commenced
42 may order the State to make available to the attorney appointed to institute such

1 proceedings all documents and investigative reports as are in the State's possession or
2 control and grand jury minutes as are relevant to the proceedings.

3 **§1504. Forfeiture of firearms**

4 **1. Mandatory forfeiture.** As part of every sentence imposed, except as provided in
5 subsection 2, a court shall order that a firearm must be forfeited to the State if:

6 A. That firearm constitutes the basis for conviction under:

7 (1) Title 15, section 393;

8 (2) Section 1105-A, subsection 1, paragraph C-1;

9 (3) Section 1105-B, subsection 1, paragraph C;

10 (4) Section 1105-C, subsection 1, paragraph C-1;

11 (5) Section 1105-D, subsection 1, paragraph B-1;

12 (6) Section 1105-E, subsection 1, paragraph B; or

13 (7) Section 1118-A, subsection 1, paragraph B;

14 B. The State pleads and proves that the firearm is used by the person or an
15 accomplice during the commission of any murder or Class A, Class B or Class C
16 crime or any Class D crime defined in chapter 9, 11 or 13; or

17 C. The person, with the approval of the State, consents to the forfeiture of the
18 firearm.

19 **2. Prohibited forfeiture.** Except as provided in subsection 3, a court may not order
20 the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1 if, prior
21 to the imposition of the person's sentence:

22 A. For a crime other than murder or any other unlawful homicide crime, another
23 person satisfies the court by a preponderance of the evidence that the other person, at
24 the time of the commission of the crime, had a right to possess the firearm to the
25 exclusion of the convicted person; or

26 B. For the crime of murder or any other unlawful homicide crime, another person
27 satisfies the court by a preponderance of the evidence that the other person, at the
28 time of the commission of the crime, was the rightful owner from whom the firearm
29 had been stolen and the other person was not a principal or accomplice in the
30 commission of the crime.

31 **3. Exceptions to prohibited forfeiture.** Notwithstanding subsection 2, paragraph
32 A, the court shall order the forfeiture of a firearm even if another person meets the
33 requirements of subsection 2, paragraph A if the person being sentenced was convicted of
34 possessing a firearm in violation of Title 15, section 393 and, prior to the imposition of
35 the person's sentence, the State satisfies the court by a preponderance of the evidence that
36 the other person:

37 A. Knew or should have known that the convicted person was prohibited from
38 owning, possessing or controlling a firearm under Title 15, section 393; and

1 specified in subsection 1, paragraphs A and B, shall determine the appropriate period of
2 supervised release to follow the maximum term of imprisonment.

3 **§1603. Imprisonment for crime of murder**

4 **1. Sentence.** A person convicted of the crime of murder must be sentenced to
5 imprisonment for life or for any term of years that is not less than 25. The sentence of the
6 court must specify the length of the sentence to be served and must commit the person to
7 the Department of Corrections.

8 **2. Factors of domestic violence or victim's age or pregnancy.** In setting a term of
9 imprisonment pursuant to subsection 1, the court shall assign special weight to each of
10 the following 3 factors as they relate to the sentencing procedure in section 1602,
11 subsection 2:

12 A. That the victim is a child who had not in fact attained 6 years of age at the time
13 the crime was committed;

14 B. That the victim is a woman whom the convicted individual knew or had
15 reasonable cause to believe to be in fact pregnant at the time the crime was
16 committed; and

17 C. That the victim is a family or household member as defined in Title 19-A, section
18 4002, subsection 4 who is a victim of domestic violence committed by the convicted
19 individual.

20 This subsection may not be construed to restrict a court in setting a term of imprisonment
21 from considering the age of the victim in other circumstances when relevant.

22 **§1604. Imprisonment for crimes other than murder**

23 **1. Maximum terms of imprisonment dependent on crime class.** Unless a
24 different maximum term of imprisonment is specified by statute, the maximum term of
25 imprisonment is as follows:

26 A. In the case of a Class A crime, 30 years;

27 B. In the case of a Class B crime, 10 years;

28 C. In the case of a Class C crime, 5 years;

29 D. In the case of a Class D crime, less than one year; or

30 E. In the case of a Class E crime, 6 months.

31 **2. Exceptions to maximum term of imprisonment based on crime class.**
32 Notwithstanding subsection 1:

33 A. In the case of the Class A crime of aggravated attempted murder, the court shall
34 set a term of imprisonment under section 152-A, subsection 2 of life or a definite
35 period of any term of years;

1 B. If the State pleads and proves that the defendant is a repeat sexual assault
2 offender, the court may set a definite term of imprisonment under section 253-A,
3 subsection 1 for any term of years; and

4 C. In the case of the Class A crime of gross sexual assault against an individual who
5 had not yet attained 12 years of age, the court shall set a definite term of
6 imprisonment under section 253-A, subsection 2 for any term of years.

7 **3. Mandatory minimum term of imprisonment for crime with use of firearm**
8 **against an individual.** If the State pleads and proves that a Class A, B or C crime was
9 committed with the use of a firearm against an individual, the minimum sentence of
10 imprisonment, which may not be suspended, is as follows:

11 A. In the case of a Class A crime, 4 years;

12 B. In the case of a Class B crime, 2 years; and

13 C. In the case of a Class C crime, one year.

14 For purposes of this subsection, the applicable sentencing class is determined in
15 accordance with subsection 5, paragraph A.

16 This subsection does not apply if the State pleads and proves criminal threatening or
17 attempted criminal threatening, as defined in section 209, or terrorizing or attempted
18 terrorizing, as defined in section 210, subsection 1, paragraph A.

19 **4. Mandatory minimum sentence of imprisonment for certain drug crimes.** For
20 an individual convicted of violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A,
21 except as otherwise provided in section 1125, subsections 2 and 3, the court shall impose
22 a minimum sentence of imprisonment, which may not be suspended, as provided in
23 section 1125, subsection 1.

24 **5. Circumstances elevating class of crime.** The following circumstances elevate
25 the class of a crime.

26 A. If the State pleads and proves that a Class B, C, D or E crime was committed with
27 the use of a dangerous weapon, then the sentencing class for such crime is one class
28 higher than it would otherwise be. In the case of a Class A crime committed with the
29 use of a dangerous weapon, such use must be assigned special weight by the court in
30 exercising its sentencing discretion. This paragraph does not apply to a violation or
31 an attempted violation of section 208, to any other offenses to which use of a
32 dangerous weapon serves as an element or to any offense for which the sentencing
33 class is otherwise elevated because the actor or an accomplice to that actor's or
34 accomplice's knowledge was armed with a firearm or other dangerous weapon.

35 B. If the State pleads and proves that, at the time any crime, excluding murder, under
36 chapter 9, 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection 1,
37 paragraph A; or section 752-A or 752-C was committed, or an attempt of any such
38 crime was committed, the individual had 2 or more prior convictions under chapter 9,
39 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection 1, paragraph
40 A; or section 752-A or 752-C, or for an attempt of any such crime, or for engaging in

1 substantially similar conduct in another jurisdiction, the sentencing class for the
2 crime is one class higher than it would otherwise be.

3 (1) In the case of a Class A crime, the sentencing class is not elevated, but the
4 prior record must be assigned special weight by the court when imposing a
5 sentence.

6 (2) Section 9-A governs the use of prior convictions when determining a
7 sentence, except that, for the purposes of this paragraph, for violations under
8 chapter 11, the dates of prior convictions may have occurred at any time.

9 This paragraph does not apply to section 210-A if the prior convictions have already
10 served to elevate the sentencing class under section 210-A, subsection 1, paragraph C
11 or E or any other offense in which prior convictions have already served to elevate
12 the sentencing class.

13 C. The sentencing class for a crime that is pled and proved and is subject to elevation
14 pursuant to both paragraphs A and B may be elevated successively pursuant to both
15 of those paragraphs if the crime that is pled and proved contains different class
16 elevation factors.

17 **6. Special weight required for certain aggravating sentencing factors pleaded**
18 **and proved.** In exercising its sentencing discretion, a court shall assign special weight to
19 the following aggravating sentencing factors pleaded and proved by the State:

20 A. In the case of Class A gross sexual assault, the aggravating sentencing factor
21 specified in section 253-A, subsection 3, paragraph A;

22 B. In the case of gross sexual assault in violation of section 253, subsection 1 or
23 section 253, subsection 2, the aggravating sentencing factor specified in section
24 253-A, subsection 3, paragraph B; and

25 C. In the case of sexual exploitation of a minor, the aggravating sentencing factor
26 specified in section 282, subsection 3.

27 **7. Special weight required for certain aggravating sentencing factors found**
28 **present by court.** In exercising its sentencing discretion, the court shall assign special
29 weight to the following aggravating sentencing factors if found by the court.

30 A. In imposing a sentencing alternative involving a term of imprisonment for an
31 individual convicted of aggravated attempted murder, attempted murder,
32 manslaughter, elevated aggravated assault or aggravated assault of a child who had
33 not in fact attained 6 years of age at the time the crime was committed, the court shall
34 assign special weight to this objective fact in determining the basic term of
35 imprisonment as the first step in the sentencing process specified in section 1602,
36 subsection 1, paragraph A. The court shall assign special weight to any subjective
37 victim impact in determining the maximum term of incarceration in the 2nd step in
38 the sentencing process specified in section 1602, subsection 1, paragraph B. The
39 court may not suspend that portion of the maximum term of imprisonment based on
40 objective or subjective victim impact in arriving at the final sentence as the 3rd and
41 final step in the sentencing process specified in section 1602, subsection 1, paragraph

1 C. This paragraph may not be construed to restrict a court in setting a sentence from
2 considering the age of the victim in other circumstances when relevant.

3 B. In imposing a sentencing alternative involving a term of imprisonment for an
4 individual convicted of aggravated attempted murder, attempted murder,
5 manslaughter, elevated aggravated assault or aggravated assault of a woman who the
6 convicted individual knew or had reasonable cause to believe to be in fact pregnant at
7 the time the crime was committed, the court shall assign special weight to this fact in
8 determining the basic term of imprisonment as the first step in the sentencing process
9 specified in section 1602, subsection 1, paragraph A. The court shall assign special
10 weight to any subjective victim impact in determining the maximum term of
11 incarceration in the 2nd step in the sentencing process specified in section 1602,
12 subsection 1, paragraph B. The court may not suspend that portion of the maximum
13 term of imprisonment based on objective or subjective victim impact in arriving at
14 the final sentence as the 3rd and final step in the sentencing process specified in
15 section 1602, subsection 1, paragraph C. This paragraph may not be construed to
16 restrict a court in setting a sentence from considering the fact that the victim was
17 pregnant in other circumstances when relevant.

18 C. In imposing a sentencing alternative involving a term of imprisonment for an
19 individual convicted of a Class C or higher crime, the victim of which was at the time
20 of the commission of the crime in fact being stalked by that individual, the court shall
21 assign special weight to this objective fact in determining the basic sentence in the
22 first step of the sentencing process specified in section 1602, subsection 1, paragraph
23 A. The court shall assign special weight to any subjective victim impact caused by
24 the stalking in determining the maximum term of incarceration in the 2nd step in the
25 sentencing process specified in section 1602, subsection 1, paragraph B.

26 **§1605. Suspension of all or part of the term of imprisonment imposed**

27 Unless the law that the individual is convicted of violating expressly provides that an
28 authorized term of imprisonment may not be suspended, if the individual is eligible for
29 probation as authorized by chapter 67, subchapter 1 or administrative release as
30 authorized by chapter 67, subchapter 2, a sentencing court may suspend the authorized
31 term of imprisonment in whole or in part and accompany the suspension with a period of
32 probation, which may not exceed the maximum period of probation authorized for the
33 crime pursuant to section 1804, or a period of administrative release, which may not
34 exceed one year.

35 **§1606. General inapplicability of deductions under chapter 81 in setting the term of**
36 **imprisonment**

37 If a court imposes a sentencing alternative pursuant to section 1502 that includes a
38 term of imprisonment, in setting the appropriate length of that term, as well as an
39 unsuspended portion of that term, if any, the court may not consider the potential impact
40 of deductions under chapter 81 except in the context of a plea agreement in which both
41 parties are recommending to the court a particular disposition under the Maine Rules of
42 Unified Criminal Procedure, Rule 11-A.

1 **§1607. Prohibition against imprisonment based on incapacity to pay fine**

2 If a court finds that an individual has met the burden of proving incapacity to pay a
3 fine pursuant to section 1702, subsection 2, the court may not impose a term of
4 imprisonment or any other sentencing alternative involving imprisonment solely for the
5 reason that the individual does not have the present or future capacity to pay the fine.

6 **§1608. Multiple sentences of imprisonment**

7 **1. Court to state whether sentence is served concurrently or consecutively;**
8 **consecutive sentence contingent upon certain factors.** The court shall state in the
9 sentence of imprisonment whether a sentence must be served concurrently with or
10 consecutively to any other sentence previously imposed or to another sentence imposed
11 on the same date. The sentences must be concurrent except that the court may impose the
12 sentences consecutively after considering the following factors:

13 A. The convictions are for offenses based on different conduct or arising from
14 different criminal episodes;

15 B. The individual was under a previously imposed suspended or unsuspended
16 sentence and was on probation or administrative release, under incarceration or on a
17 release program or period of supervised release at the time the individual committed a
18 subsequent offense;

19 C. The individual had been released on bail when that individual committed a
20 subsequent offense, either pending trial of a previously committed offense or pending
21 the appeal of previous conviction; or

22 D. The seriousness of the criminal conduct involved in either a single criminal
23 episode or in multiple criminal episodes or the seriousness of the criminal record of
24 the individual, or both, require a sentence of imprisonment in excess of the maximum
25 available for the most serious offense.

26 **2. Limitations on imposition of consecutive terms for crimes in same criminal**
27 **episode.** An individual may not be sentenced to consecutive terms for crimes arising out
28 of the same criminal episode if:

29 A. One crime is an included crime of the other;

30 B. One crime consists only of a conspiracy, attempt, solicitation or other form of
31 preparation to commit, or facilitation of, the other;

32 C. The crimes differ only in that one is defined to prohibit a designated kind of
33 conduct generally and the other to prohibit a specific instance of that conduct; or

34 D. Inconsistent findings of fact are required to establish the commission of the
35 crimes.

36 **3. Reason for consecutive sentences must be stated.** If the court decides to impose
37 consecutive sentences, the court shall state its reasons for doing so on the record or in the
38 sentences.

1 **4. When new sentence is to be served consecutively for individual on probation,**
2 **administrative release or supervised release.** If an individual has been placed on
3 probation, administrative release or supervised release pursuant to a previously imposed
4 sentence and the court determines that the previously imposed sentence and a new
5 sentence must be served consecutively, the court shall revoke probation or administrative
6 release pursuant to section 1812, subsections 5 and 6 or terminate supervised release
7 pursuant to section 1881, subsection 6. The court may order that the sentence that had
8 been suspended be served at the same institution as that which is specified by the new
9 sentence.

10 **5. Mandatory resentencing following discovery of previously imposed sentence.**
11 If it is discovered subsequent to the imposition of a sentence of imprisonment that the
12 sentencing court was unaware of a previously imposed sentence of imprisonment that is
13 not fully discharged, the court shall resentence the individual and shall specify whether
14 the sentences are to be served concurrently or consecutively.

15 **6. Special requirements for individual previously sentenced in another**
16 **jurisdiction.** If an individual who has been previously sentenced in another jurisdiction
17 has not commenced or completed that sentence, the court may, with consideration of the
18 factors stated in subsection 1, sentence the individual to a term of imprisonment that must
19 be treated as a concurrent sentence from the date of sentencing although the individual is
20 incarcerated in an institution of the other jurisdiction. A concurrent sentence pursuant to
21 this subsection may not be imposed unless the individual being sentenced consents or
22 unless the individual being sentenced executes, at the time of sentencing, a written waiver
23 of extradition for that individual's return to this State, upon completion of the sentence of
24 the other jurisdiction, if any portion of this State's sentence remains unserved. In the
25 absence of an order pursuant to this subsection requiring concurrent sentences, any
26 sentence of imprisonment in this State commences as provided in section 2303,
27 subsections 1 and 2 and runs consecutively to the sentence of the other jurisdiction.

28 **7. Sentencing subsequent to probation, administrative release or supervised**
29 **release.** A court may not impose a sentence of imprisonment, not wholly suspended, to
30 be served consecutively to any split sentence, or to any sentence including supervised
31 release under chapter 67, subchapter 3, previously imposed or imposed on the same date,
32 if the net result, even with the options made available by subsections 4 and 8, section
33 1804, subsection 12, section 1852, subsection 5 and section 1881, subsection 6, would be
34 to have the individual released from physical confinement to be on probation,
35 administrative release or supervised release for the first sentence and thereafter be
36 required to serve an unsuspended term of imprisonment on the 2nd sentence.

37 **8. Rearrangement of order of sentences.** A court imposing a sentence of
38 imprisonment to be served consecutively to any other previously imposed sentence that
39 the individual has not yet commenced, in order to comply with subsection 7, may
40 rearrange the order in which the sentences are to be served.

1 **§1609. Nonconcurrent sentence for crime attempted or committed while in**
2 **execution of term of imprisonment**

3 Notwithstanding section 1608, when an individual subject to an undischarged term of
4 imprisonment is convicted of a crime committed while in execution of any term of
5 imprisonment or of an attempt to commit a crime while in execution of any term of
6 imprisonment, the sentence is not concurrent with any undischarged term of
7 imprisonment. The court may order that any undischarged term of imprisonment be
8 tolled and service of the nonconcurrent sentence commence immediately and the court
9 shall so order if any undischarged term of imprisonment is a split sentence. No portion of
10 the nonconcurrent sentence may be suspended. Any sentence that the convicted
11 individual receives as a result of the conviction of a crime or attempt to commit a crime
12 while in execution of a term of imprisonment must be nonconcurrent with all other
13 sentences.

14 This section applies to prisoners on supervised community confinement pursuant to
15 Title 34-A, section 3036-A.

16 **§1610. Place of imprisonment**

17 **1. Class D or Class E crimes.** The court shall specify a county jail as the place of
18 imprisonment for an individual convicted of a Class D or Class E crime, except that, if a
19 sentence to a term of imprisonment in a county jail is consecutive to or is to be followed
20 by a sentence to a term of imprisonment in the custody of the Department of Corrections,
21 the court imposing either sentence may order that both be served in the custody of the
22 Department of Corrections. If a court imposes consecutive terms of imprisonment for
23 Class D or Class E crimes and the aggregate length of the terms imposed is one year or
24 more, the court may order that they be served in the custody of the Department of
25 Corrections.

26 **2. Class A, Class B or Class C crimes.** For an individual convicted of a Class A,
27 Class B or Class C crime the court shall:

28 A. Specify a county jail as the place of imprisonment if the term of imprisonment is
29 9 months or less; or

30 B. Commit the individual to the Department of Corrections if the term of
31 imprisonment is more than 9 months.

32 **3. Intermittent service of county jail sentence.** At the request of or with the
33 consent of a convicted individual, the court may order a sentence of imprisonment under
34 this chapter in a county jail, a sentence of probation involving imprisonment in a county
35 jail under chapter 67, subchapter 1 or a sentence of administrative release involving
36 imprisonment in a county jail under chapter 67, subchapter 2 to be served intermittently.

37 **§1611. Commitments to Department of Corrections of bound-over juveniles who**
38 **have not attained 18 years of age at the time of sentencing**

39 A juvenile who has been bound over, pursuant to Title 15, section 3101, subsection 4,
40 who is subsequently, as to the juvenile crime's adult counterpart, convicted and sentenced

1 to a sentencing alternative involving imprisonment and who has not attained 18 years of
2 age at the time of sentence imposition must be committed to a Department of Corrections
3 juvenile correctional facility for an indeterminate period not to extend beyond the
4 juvenile's 18th birthday to serve the term of imprisonment or any unsuspended portion
5 until discharge from the juvenile correctional facility, and once discharged the juvenile
6 must be transferred to a correctional facility in which adult individuals are confined to
7 serve out the remainder of the imprisonment term or unsuspended portion, if any.

8 **§1612. Tolling of sentence of noncompliant witness**

9 In the event a witness in a grand jury or criminal proceeding has been ordered
10 confined by a court in the State as a remedial coercive sanction for refusing to comply
11 with an order of the court to testify or provide evidence, and that witness is already in
12 execution of an undischarged term of imprisonment on a sentence in the State, that court
13 may order that the undischarged term of imprisonment be tolled for the duration of the
14 coercive imprisonment.

15 **CHAPTER 65**

16 **FINES, FEES, ASSESSMENTS AND SURCHARGES**

17 **SUBCHAPTER 1**

18 **FINES**

19 **§1701. Definite fine amount required**

20 In imposing a sentencing alternative pursuant to section 1502 that includes a fine, the
21 court shall set a specific amount of money.

22 **§1702. Criteria for imposing sentencing alternative that includes fine**

23 **1. Consideration of financial capacity to pay and financial burden.** In
24 determining the amount of a fine, unless the fine amount is mandatory, and in
25 determining the method of payment of a fine, the court shall take into account the present
26 and future financial capacity of the convicted person to pay the fine and the nature of the
27 financial burden that payment of the fine will impose on the person or a dependent, if
28 any, of the person.

29 **2. Burden of proving financial hardship or incapacity to pay.** A convicted
30 person who asserts a present or future incapacity to pay a fine or asserts that the fine will
31 cause an excessive financial hardship on the person or on a dependent of the person has
32 the burden of proving the incapacity or excessive hardship by a preponderance of the
33 evidence. On appeal of a sentencing alternative involving a fine, the person has the
34 burden of demonstrating that the incapacity or excessive financial hardship was proven as
35 a matter of law.

1 **§1703. Use of fine relative to individuals**

2 Except when specifically precluded, in choosing the appropriate punishment for an
3 individual convicted of a crime, the court shall consider the desirability of imposing a
4 sentencing alternative involving a fine either in conjunction with or in lieu of a sentencing
5 alternative involving imprisonment. A sentencing alternative involving imprisonment
6 may not be imposed by a court solely for the reason that the individual does not have the
7 present or future financial capacity to pay a fine.

8 **§1704. Maximum fine amounts authorized for convicted individuals**

9 An individual who has been convicted of a Class A, Class B, Class C, Class D or
10 Class E crime may be sentenced to pay a fine. Except as provided in section 1706 and
11 unless a different maximum fine is specified by statute, the maximum fine that may be
12 imposed by a court on a convicted individual is as follows:

- 13 **1. Class A crime.** In the case of a Class A crime, \$50,000;
14 **2. Class B crime.** In the case of a Class B crime, \$20,000;
15 **3. Class C crime.** In the case of a Class C crime, \$5,000;
16 **4. Class D crime.** In the case of a Class D crime, \$2,000; and
17 **5. Class E crime.** In the case of a Class E crime, \$1,000.

18 **§1705. Maximum fine amounts authorized for convicted organizations**

19 An organization that has been convicted of murder or a Class A, Class B, Class C,
20 Class D or Class E crime may be sentenced to pay a fine. Except as provided in section
21 1706 and unless a different maximum fine is specified by statute, the maximum fine that
22 may be imposed by a court on a convicted organization is as follows:

- 23 **1. Crime of murder.** In the case of the crime of murder, any amount;
24 **2. Class A crime.** In the case of a Class A crime, \$100,000;
25 **3. Class B crime.** In the case of a Class B crime, \$40,000;
26 **4. Class C crime.** In the case of a Class C crime, \$20,000; and
27 **5. Class D crime or Class E crime.** In the case of a Class D crime or a Class E
28 crime, \$10,000.

29 **§1706. Exceptions to maximum fine amounts**

30 Notwithstanding the maximum fine amounts specified in sections 1704 and 1705, a
31 court may impose fines as provided in this section.

- 32 **1. Pecuniary gain.** Regardless of the classification of the crime, the court may
33 impose a fine on a convicted person that is in an amount greater than the maximum fine

1 amounts specified in section 1704 for an individual and section 1705 for an organization
2 as long as the fine does not exceed twice the pecuniary gain derived from the crime by
3 the convicted person. The State must plead and prove the amount of money or the value
4 of the property obtained by the person at the time of the commission of the crime. At
5 sentencing, if the court is considering imposing a fine based upon pecuniary gain, it shall
6 hold a hearing in order to determine the pecuniary gain. At the hearing the court shall
7 determine whether any money or property was returned to the victim of the crime or was
8 seized by or surrendered to a lawful authority prior to the time of sentencing, and shall
9 determine the value of any such property. If the court finds that money or property was
10 returned, seized or surrendered, the court shall reduce the pecuniary gain pleaded and
11 proved by the State by the amount of money or the value of property returned, seized or
12 surrendered in order to arrive at the net amount of pecuniary gain upon which a fine may
13 be based pursuant to this subsection. If the court determines that no money or property
14 was returned, seized or surrendered, the court shall base the fine on the amount pleaded
15 and proved by the State.

16 As used in this subsection, "pecuniary gain" means the amount of money or the value of
17 property at the time of the commission of the crime derived by the person from the
18 commission of the crime.

19 **2. Fine based on quantity of item illegally possessed by convicted person.**

20 Whenever a statute makes the possession of a particular item, whether animate or
21 inanimate, a criminal offense and provides that the amount of the fine depends upon the
22 quantity of the item possessed by the person, if the State pleads and proves the quantity of
23 the item possessed by the person, the fine is as provided for in the statute and is not
24 subject to the maximum limits placed on fines by sections 1704 and 1705.

25 **3. Fine based on value of scheduled drug at time of offense.**

26 Whenever a statute authorizes that the amount of the fine for a specific drug offense be based on the value of
27 the scheduled drug at the time of the offense upon which the conviction is based, if the
28 State pleads and proves the value of the scheduled drug at the time of the offense, the fine
29 may be as provided for in the statute and is not subject to the maximum limits placed on
30 fines by sections 1704 and 1705.

31 **§1707. Multiple fines imposed on convicted person**

32 When multiple fines are imposed on a convicted person at the same time or when a
33 fine is imposed on a convicted person already subject to an unpaid or partly unpaid fine,
34 the fines must be cumulative, unless the court specifies that only the highest single fine
35 must be paid in the case of offenses based on the same conduct or arising out of the same
36 criminal episode or for other good cause stated on the record or in the sentences.

37 **§1708. Time and method of payment of fines imposed on convicted person**

38 **1. Timing of fine payment.** If a convicted person is sentenced to pay a fine, the
39 court may grant permission for the payment to be made within a specified period of time
40 or in specified installments. If such permission is not included in the sentence, the fine
41 must be paid immediately to the clerk of the court.

1 **2. Payment as condition of probation or administrative release.** If a convicted
2 person sentenced to pay a fine is also placed on probation or administrative release, the
3 court may make the payment of the fine a condition of probation or administrative
4 release. In the case of probation, the court may order that the fine be paid to the
5 convicted person's probation officer.

6 **§1709. Post-conviction relief invalidating conviction; potential return of fine**
7 **payments**

8 If, in any judicial proceeding following conviction, a court issues a final judgment
9 invalidating the conviction, the judgment may include an order that a fine payment or any
10 part of a fine payment that the convicted person paid pursuant to the sentence for that
11 conviction be returned to that person.

12 **§1710. Modification of payment of fine**

13 If a convicted person who has been sentenced to pay a fine is in danger of default,
14 that person shall move the court for a modification of time or method of payment to avoid
15 a default. The court may modify its prior order to allow additional time for payment or to
16 reduce the amount of each installment.

17 **§1711. Default**

18 **1. Return to court upon default.** A convicted person who has been sentenced to
19 pay a fine and who fails to pay part or all of that fine is in default and must be returned to
20 court to explain the failure to pay the fine.

21 **2. Court authorized to conduct default hearing.** A convicted person who has
22 defaulted on the payment of a fine and is required to be returned to a court pursuant to a
23 warrant may be returned to the court that issued the warrant or to the court having
24 jurisdiction over the area where the warrant was executed. Either court is authorized to
25 conduct the default hearing pursuant to subsection 4.

26 For purposes of this subsection, "convicted person" includes an individual or individuals
27 authorized to make disbursements from the assets of a convicted organization.

28 **3. Reporting of default; motion to revoke probation, revoke administrative**
29 **release or enforce payment.** A probation officer having knowledge of a default in
30 payment of a fine by a convicted person shall report the default to the office of the
31 attorney for the State. An attorney for the State having knowledge of a default in
32 payment of a fine by a convicted person shall report the default to the court. If the fine
33 was a condition of probation, the attorney for the State may file a motion to enforce
34 payment of the fine or, with the written consent of the probation officer, a motion to
35 revoke probation under section 1811. If the fine was a requirement of administrative
36 release, the attorney for the State may file a motion to enforce payment of the fine or a
37 motion to revoke administrative release under section 1855. If the fine was not a
38 condition of probation or a requirement of administrative release, the attorney for the
39 State may file a motion to enforce payment of the fine.

1 **4. Procedure for motion to enforce payment.** Either the attorney for the State or
2 the court may initiate a motion to enforce payment of a fine. Notification for the hearing
3 on the motion must be sent by regular mail to the convicted person's last known address.
4 If the person does not appear for the hearing after proper notification has been sent, the
5 court may issue a bench warrant. A court need not bring a motion to enforce payment of a
6 fine nor notify the person by regular mail of the date of the hearing if at the time of
7 sentence imposition the court's order to pay the fine and accompanying warnings to the
8 person comply with Title 14, section 3141, subsection 3 or 4; in this case, if the person
9 fails to appear as directed by the court's fine order, the court may issue a bench warrant.

10 A. Unless the person shows by a preponderance of the evidence that the default was
11 not attributable to an intentional or knowing refusal to obey the court's order or to a
12 failure on the person's part to make a good faith effort to obtain the funds required for
13 the payment, the court shall find that the default was unexcused and may:

14 (1) Commit the person to the custody of the sheriff until all or a specified part of
15 the fine is paid. The length of confinement in a county jail for unexcused default
16 must be specified in the court's order and may not exceed 6 months. A person
17 committed for nonpayment of a fine is given credit toward the payment of the
18 fine for each day of confinement that the person is in custody at the rate specified
19 in the court's order, which may not be less than \$25 or more than \$100 of unpaid
20 fine for each day of confinement. The person is also given credit for each day
21 that the person is detained as the result of an arrest warrant issued pursuant to this
22 section. A person is responsible for paying any fine remaining after receiving
23 credit for confinement and detention. A default on the remaining fine is also
24 governed by this section; or

25 (2) If the unexcused default relates to a fine imposed for a Class C, Class D or
26 Class E crime, as authorized by this subchapter, order the person to perform a
27 specified number of hours of community service work for the benefit of the State,
28 a county, a municipality, a school administrative district or other public entity, a
29 charitable institution or other entity approved by the court until all or a specified
30 part of the fine is paid. The number of hours of community service work must be
31 specified in the court's order and the person must receive a credit against the
32 unpaid fine at a rate equal to the current hourly minimum wage. A person
33 ordered to perform community service work pursuant to this subparagraph is
34 given credit toward the payment of the fine for each 8-hour day of community
35 service work performed. The person is also given credit toward the payment of
36 the fine for each day that the person is detained as a result of an arrest warrant
37 issued pursuant to this section at a rate specified in the court's order that is up to
38 \$100 of unpaid fine per day of confinement. A person who fails to complete the
39 work in the manner ordered by the court must be returned to the court to explain
40 the failure. A person is responsible for paying any fine remaining after receiving
41 credit for any detention and for community service work performed. A default
42 on the remaining fine is also governed by this section.

43 The Department of Corrections is not responsible for supervision of community
44 service work performed pursuant to this subparagraph.

1 B. If it appears that the default is excusable, the court may give the person additional
2 time for payment, may reduce the amount of each installment or may permit the
3 person to perform community service work at the rate authorized by paragraph A,
4 subparagraph (2), supervised by the sheriff of the county in which the court that
5 assessed the fine is located or by a community confinement monitoring agency with
6 which that sheriff has contracted under Title 30-A, section 1659-A.

7 C. If the court commits a person to the custody of the sheriff for nonpayment of a
8 fine pursuant to paragraph A, subparagraph (1), the court may authorize, at the time
9 of its order only, participation of the person in a project under Title 30-A, section
10 1606 with the agreement of the sheriff of the county jail where the person is
11 committed. The person must be given credit according to Title 30-A, section 1606,
12 subsection 2.

13 D. The confinement ordered under paragraph A, subparagraph (1) must be
14 nonconcurrent with any judgment of conviction involving a term of imprisonment.

15 **5. Levy of execution or other civil measures authorized; consequence of levy of**
16 **execution.** Upon any default, the court may order execution to be levied and may order
17 other measures authorized for the collection of unpaid civil judgments to be taken to
18 collect the unpaid fine. A levy of execution does not discharge a convicted person
19 confined to a county jail or performing community service work under subsection 4 for
20 unexcused default until the full amount of the fine has been collected or credited.

21 **6. Payment of fine imposed on organization; consequence of failure.** When a
22 fine is imposed on an organization, the individual or individuals authorized to make
23 disbursements from the assets of the organization shall pay the fine from the
24 organization's assets. Failure to do so may subject the individual or individuals to court
25 action pursuant to this section.

26 **§1712. Deposit of certain fines in Maine Military Family Relief Fund**

27 Notwithstanding any provision of law to the contrary, if a person is convicted under
28 section 354, subsection 2, paragraph A of theft by deception due to that person's
29 intentional creation or reinforcement of a false impression that the person is a veteran or a
30 member of the Armed Forces of the United States or a state military force, any fine
31 imposed on that person by the court must be deposited in the Maine Military Family
32 Relief Fund established in Title 37-B, section 158.

33 **SUBCHAPTER 2**

34 **FEES, ASSESSMENTS AND SURCHARGES**

35 **§1751. County jail reimbursement fee**

36 **1. Assessment of reimbursement fee.** When an individual is sentenced to
37 incarceration in a county jail, the sentencing court shall consider and may assess as part
38 of the sentence a jail reimbursement fee, referred to in this section as "the reimbursement
39 fee," to help defray the expenses of the individual's room and board.

1 **2. Evidence.** The court, in determining whether a reimbursement fee as set out in
2 subsection 1 is to be assessed and in establishing the amount of that fee, shall consider
3 evidence relevant to the individual's ability to pay that fee, including, but not limited to,
4 the factors set forth in section 2005, subsection 2, paragraph D, subparagraphs (1) to (5).
5 The court may not consider as evidence the following:

6 A. Joint ownership, if any, that the individual may have in real property;

7 B. Joint ownership, if any, that the individual may have in any assets, earnings or
8 other sources of income; and

9 C. The income, assets, earnings or other property, both real and personal, owned by
10 the individual's spouse or family.

11 **3. Amount of reimbursement fee; collection.** After considering all relevant
12 evidence on the issue of the individual's ability to pay under subsection 2, the court may
13 enter, as part of its sentence, a reimbursement fee that must be paid by the individual for
14 incarceration in the county jail. The reimbursement fee may not exceed the cost of
15 incarcerating the individual or \$80 per day, whichever is less, and must bear a reasonable
16 relationship to the individual's ability to pay. Upon petition by the individual, the amount
17 may be modified to reflect any changes in the financial status of the individual.

18 Any reimbursement fee assessed must be collected by the county treasurer of the county
19 in which the individual is incarcerated, paid into the treasury of that county and credited
20 to the county responsible for paying for the incarceration of the individual.

21 **4. Timing of fee payment.** If an individual is sentenced to pay a reimbursement fee,
22 the court may allow the individual to pay the reimbursement fee within a specified time
23 or in specified installments. If such permission is not contained in the sentence, the
24 reimbursement fee is payable immediately.

25 **5. Default.** An individual who has been sentenced to pay a reimbursement fee and
26 who fails to pay part or all of that fee is in default and must be returned to court to explain
27 the failure to pay that fee.

28 A probation officer who knows of a default in payment of a reimbursement fee by an
29 individual shall report the default to the office of the attorney for the State or the attorney
30 for the county. If the reimbursement fee was a condition of probation, the attorney for the
31 State or the attorney for the county may file a motion to enforce payment of the
32 reimbursement fee or, with the written consent of the probation officer, the attorney for
33 the State may file a motion to revoke probation under section 1811. If the reimbursement
34 fee was a requirement of administrative release, the attorney for the State or the attorney
35 for the county may file a motion to enforce payment of the reimbursement fee or the
36 attorney for the State may file a motion to revoke administrative release under section
37 1855. If the reimbursement fee was not a condition of probation or a requirement of
38 administrative release, the attorney for the State or the attorney for the county may file a
39 motion to enforce payment of the reimbursement fee.

40 **6. Motion to enforce payment of reimbursement fee.** The attorney for the State,
41 the attorney for the county or the court may initiate a motion to enforce payment of a
42 reimbursement fee. Notification for the hearing on the motion must be sent by regular

1 mail to the individual's last known address. If the individual does not appear for the
2 hearing after proper notification has been sent, the court may issue a bench warrant.

3 A. Unless the individual shows by a preponderance of the evidence that the default
4 was not attributable to an intentional or knowing refusal to obey the court's order or
5 to a failure on the individual's part to make a good faith effort to obtain the funds
6 required to make payment, the court shall find that the default was unexcused and
7 may commit the individual to the custody of the sheriff until all or a specified part of
8 the reimbursement fee is paid. The length of confinement in a county jail for
9 unexcused default must be specified in the court's order and may not exceed 6
10 months. An individual committed for nonpayment of a reimbursement fee is given
11 credit toward the payment of a reimbursement fee for each day of confinement that
12 the individual is in custody, at the rate specified in the court's order, which may not
13 be less than \$25 or more than \$100 of unpaid reimbursement fee for each day of
14 confinement. The individual is also given credit for each day that the individual has
15 been detained as the result of an arrest warrant issued pursuant to this section. An
16 individual is responsible for paying any reimbursement fee remaining after receiving
17 credit for confinement and detention.

18 B. If it appears that the default is excusable, the court may give the individual
19 additional time for payment or may reduce the amount of each installment.

20 C. The confinement ordered under this subsection must be nonconcurrent with any
21 judgment of conviction involving a term of imprisonment.

22 **§1752. Supervision fee as condition of probation**

23 If a court imposes a sentencing alternative authorized under section 1502 that
24 includes a period of probation, it must attach as a condition of probation that the
25 convicted individual pay, through the Department of Corrections, a supervision fee
26 imposed pursuant to section 1807, subsection 6 for the term of probation.

27 **§1753. Electronic monitoring fee and substance testing fee as conditions of**
28 **probation**

29 If a court imposes a sentencing alternative authorized under section 1502 that
30 includes a period of probation, upon the request of the Department of Corrections, the
31 court shall attach as a condition of probation an electronic monitoring fee, a substance
32 testing fee or both, as governed by section 1807, subsection 7.

33 **§1754. Fee for applying to Department of Corrections to temporarily or**
34 **periodically leave jurisdiction**

35 If a court requires as a condition of probation that the convicted individual remain
36 within the jurisdiction of the court, unless permission to leave temporarily is granted in
37 writing by the convicted individual's probation officer, the Department of Corrections
38 may impose on the individual applying for permission to leave either temporarily or
39 periodically an application fee, as governed by section 1807, subsection 8.

1 **§1755. Administrative supervision fee as nonmandatory requirement of**
2 **administrative release**

3 If a court imposes a suspended sentence with administrative release pursuant to
4 section 1853 and attaches requirements for the term of the administrative release, the
5 court-imposed requirements of administrative release may include an administrative
6 supervision fee, as governed by section 1854, subsection 2, paragraph A.

7 **§1756. Administrative supervision fee as nonmandatory requirement of deferred**
8 **disposition**

9 If an individual consents to a deferred disposition pursuant to section 1901 and a
10 court orders sentencing to be deferred and imposes requirements to be in effect during the
11 period of deferment, the court-imposed deferment requirements may include an
12 administrative supervision fee, as governed by sections 1902 and 1903.

13 **§1757. Surcharges and assessments outside the code**

14 In addition to the fees authorized by this subchapter, the court shall impose, as
15 applicable, the following surcharges and assessments.

16 **1. Surcharge and assessment applicable to all criminal cases.** The court shall
17 impose on all persons convicted of a crime:

18 A. The surcharges for the Government Operations Surcharge Fund and the General
19 Fund authorized under Title 4, section 1057, subsection 2-A;

20 B. The assessment for the Victims' Compensation Fund authorized under Title 5,
21 section 3360-I; and

22 C. The surcharge for the County Jail Operations Fund authorized under Title 34-A,
23 section 1210-D, subsection 5.

24 **2. Surcharge applicable to violation of animal welfare laws or operating under**
25 **the influence laws.** The court shall impose:

26 A. The surcharge authorized under Title 17, section 1015 for a violation of Title 17,
27 chapter 42; and

28 B. The surcharge authorized under Title 29-A, section 2411, subsection 7 for a
29 violation of Title 29-A, section 2411.

30 **§1758. Authority to impose fees, surcharges and assessments by Supreme Judicial**
31 **Court**

32 Nothing in this chapter limits the authority of the Supreme Judicial Court to impose
33 fees, surcharges or assessments by administrative order or rule.

34 **CHAPTER 67**

35 **CONDITIONAL RELEASE**

36 **SUBCHAPTER 1**

1 **PROBATION**

2 **§1801. Definitions**

3 As used in this subchapter, unless the context otherwise indicates, the following
4 terms have the following meanings.

5 **1. Dating partner.** "Dating partner" has the same meaning as in Title 19-A, section
6 4002, subsection 3-A.

7 **2. Family or household member.** "Family or household member" has the same
8 meaning as in Title 19-A, section 4002, subsection 4.

9 **3. Victim.** "Victim" means:

10 A. A person who is the victim of a crime;

11 B. The immediate family of a victim of a crime if:

12 (1) The underlying crime is one of domestic violence or sexual assault or one in
13 which the family suffered serious physical trauma or serious financial loss; or

14 (2) Due to death, age, physical or mental disease, disorder or defect, the victim is
15 unable to participate as allowed by law; or

16 C. A person who has obtained under Title 19-A, section 4007 an active protection
17 order or approved consent agreement against the defendant.

18 **§1802. Eligibility for sentencing alternative that includes period of probation**

19 **1. General eligibility.** A person who has been convicted of a crime may be
20 sentenced to a sentencing alternative under section 1502 that includes a period of
21 probation, unless:

22 A. The conviction is for murder;

23 B. The conviction is for a Class D or Class E crime other than:

24 (1) A Class D or Class E crime relative to which, based upon both the written
25 agreement of the parties and a court finding, the facts and circumstances of the
26 underlying criminal episode giving rise to the conviction generated probable
27 cause to believe the person had committed a Class A, Class B or Class C crime in
28 the course of that criminal episode and, as agreed upon in writing by the parties
29 and found by the court, the person does not have a prior conviction for murder or
30 for a Class A, Class B or Class C crime and has not been placed on probation
31 pursuant to this subparagraph on any prior occasion;

32 (2) A Class D crime that the State pleads and proves was committed against a
33 family or household member or a dating partner under chapter 9 or 13 or section
34 554, 555 or 758;

35 (3) A Class D crime under Title 5, section 4659, subsection 1; Title 15, section
36 321, subsection 6; or Title 19-A, section 4011, subsection 1;

37 (4) A Class D or Class E crime in chapter 11 or 12;

- 1 (5) A Class D crime under section 210-A;
2 (6) A Class E crime under section 552;
3 (7) A Class D or Class E crime under section 556, section 853, section 854,
4 excluding subsection 1, paragraph A, subparagraph (1), or section 855;
5 (8) A Class D crime in chapter 45 relating to a schedule W drug;
6 (9) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A,
7 paragraph B;
8 (10) A Class D crime under Title 17, section 1031; or
9 (11) A Class E crime under Title 15, section 1092, subsection 1, paragraph A, if
10 the condition of release violated is specified in Title 15, section 1026, subsection
11 3, paragraph A, subparagraph (5) or (8) and the underlying crime involved
12 domestic violence;
- 13 C. The court sentences the person to a sentencing alternative under section 1502 that
14 includes a period of administrative release;
- 15 D. The court sentences the individual to a term of imprisonment followed by a
16 period of supervised release as authorized by subchapter 3;
- 17 E. The statute that the person is convicted of violating expressly provides that the
18 fine or imprisonment penalties it authorizes may not be suspended, in which case the
19 person must be sentenced to the imprisonment and required to pay the fine authorized
20 in that statute; or
- 21 F. The court finds that such a sentence would diminish the gravity of the crime for
22 which that person was convicted.

23 **2. Eligibility for persons needing supervision or assistance.** A person who is
24 eligible for sentence under this subchapter, as provided in subsection 1, may be sentenced
25 to a sentencing alternative that includes a period of probation if the person is in need of
26 the supervision, guidance, assistance or direction that probation can provide.

27 **§1803. Definite period of probation required**

28 In imposing a sentencing alternative under section 1502 that includes a period of
29 probation, the court shall set a definite period of probation.

30 **§1804. Period of probation; modification; termination and discharge**

31 **1. Limit on length of probation.** Except as provided in subsections 2, 3, 4, 5 and 6,
32 the period of probation for a person may not exceed:

- 33 A. For a Class A crime, 4 years;
34 B. For a Class B crime, 3 years;
35 C. For a Class C crime, 2 years; and
36 D. For a Class D or Class E crime, one year.

1 **2. Exception to limits when victim is less than 12 years of age.** If the State pleads
2 and proves that at the time of the crime the victim had not attained 12 years of age or, in
3 the case of a crime under sections 283 and 284, the victim had not attained 12 years of
4 age at the time the sexually explicit conduct occurred, the period of probation for a person
5 convicted under chapter 11 or 12 may not exceed:

- 6 A. For a Class A crime, 18 years;
- 7 B. For a Class B crime, 12 years; and
- 8 C. For a Class C crime, 6 years.

9 **3. Exception to limits when victim is family or household member.** If the State
10 pleads and proves that the person was convicted of committing against a family or
11 household member a crime under chapter 9 or 13 or section 554 or if the person was
12 convicted under chapter 11 or 12 or section 556, the period of probation may not exceed:

- 13 A. For a Class A crime, 6 years; and
- 14 B. For a Class B or Class C crime, 4 years.

15 **4. Exception to limits when person sentenced as repeat sexual assault offender.**
16 The period of probation for a person sentenced as a repeat sexual assault offender
17 pursuant to section 253-A, subsection 1 is any term of years.

18 **5. Exception to limits when person sentenced for nonsupport of dependents.**
19 The period of probation for a person sentenced for the crime of nonsupport of dependents
20 under section 552 is as provided under section 552, subsection 4.

21 **6. Exception to limits when person ordered to complete batterers' intervention**
22 **program and pay restitution.** If the State pleads and proves that the enumerated Class
23 D or Class E crime was committed by the person against a family or household member
24 and the court orders the person to complete a certified batterers' intervention program as
25 defined in Title 19-A, section 4014, the person may be placed on probation for a period
26 not to exceed 2 years, except that, on motion by the person's probation officer, the person
27 or the court, the term of probation must be terminated by the court when the court
28 determines that the person has:

- 29 A. Served at least one year of probation;
- 30 B. Completed the certified batterers' intervention program;
- 31 C. Paid in full any victim restitution ordered; and
- 32 D. From the time the period of probation commenced until the motion for
33 termination is heard, met all other conditions of probation.

34 As used in this subsection, "enumerated Class D or Class E crime" means any Class D
35 crime in chapter 9, any Class D or Class E crime in chapter 11, the Class D crimes
36 described in sections 302 and 506-B and the Class D crimes described in sections 554,
37 555 and 758.

38 **7. Modification of probation requirements authorized.** During the period of
39 probation specified in the sentence made pursuant to this section, and upon application of

1 the person on probation or the person's probation officer, or upon the court's own motion,
2 the court may, after a hearing upon notice to the probation officer and the person on
3 probation, modify the requirements imposed by the court or a community reparations
4 board, add further requirements authorized by section 1807 or relieve the person on
5 probation of any requirement imposed by the court or a community reparations board
6 that, in the court's opinion, imposes on the person an unreasonable burden. If the person
7 on probation cannot meet a requirement imposed by the court or a community reparations
8 board, the person shall bring a motion under this subsection.

9 **8. Ex parte motion for modification by probation officer in advance of hearing.**

10 Notwithstanding subsection 7, the court may grant, ex parte, a motion brought by the
11 probation officer of the person on probation to add further requirements if the court
12 determines that all reasonable efforts have been made to give written or oral notice to the
13 person on probation and the requirements are immediately necessary to protect the safety
14 of an individual or the public. Any requirements added pursuant to an ex parte motion do
15 not take effect until written notice of the requirements, along with written notice of the
16 scheduled date, time and place when the court will hold a hearing on the added
17 requirements, is given to the person on probation.

18 **9. Conversion of probation to administrative release.**

19 Once the period of
20 probation has commenced, on motion of the person on probation or the person's probation
21 officer, or on the court's own motion, the court may at any time convert a period of
22 probation for a Class D or Class E crime or a Class C crime under Title 29-A, section
23 2557-A to a period of administrative release. A conversion to administrative release may
24 not be ordered unless notice of the motion is given to the probation officer and the
25 attorney for the State. The provisions of subchapter 2 apply when probation is converted
26 to administrative release. Conversion to administrative release in accordance with this
27 subsection relieves the person on probation of any obligations imposed by the probation
conditions.

28 **10. Early termination of probation and discharge authorized.**

29 Once the period of
30 probation has commenced, on motion of the person on probation or the person's probation
31 officer, or on the court's own motion, the court may at any time terminate a period of
32 probation and discharge the person at any time earlier than that provided in the sentence
33 made pursuant to this section, if warranted by the conduct of the person. A termination
34 and discharge may not be ordered unless notice of the motion is given to the probation
35 officer and the attorney for the State. Termination and discharge in accordance with this
36 subsection relieves the person on probation of any obligations imposed by the sentence of
probation.

37 **11. Justice or judge authorized to hear motions regarding probation.**

38 A motion
39 and hearing pursuant to subsection 7, 8, 9 or 10 need not be before the justice or judge
40 who originally imposed probation. Any justice or judge may initiate and hear a motion,
41 and any justice or judge may hear a motion brought by the person on probation or the
person's probation officer.

42 **12. Termination of probation to prevent delay of consecutive term of**
43 **imprisonment.** Any court, in order to comply with section 1608, subsection 7, shall

1 terminate a period of probation that would delay commencement of a consecutive
2 unsuspended term of imprisonment.

3 **§1805. Partially suspended term of imprisonment with probation or split sentence**

4 **1. Determination of date probation begins; revocation; place of imprisonment.**

5 Unless prohibited pursuant to section 1802, subsection 1, paragraphs A to F, the court
6 may impose a split sentence by sentencing an individual to a term of imprisonment not to
7 exceed the maximum term authorized for the crime, an initial portion of which is to be
8 served and the remainder of which is to be suspended, and accompany the suspension
9 with a period of probation not to exceed the maximum period authorized for the crime.
10 The period of probation commences on the date the individual is released from the
11 unsuspended portion of the term of imprisonment, unless the court orders it to commence
12 on an earlier date.

13 A. If the period of probation commences upon release of the individual from an
14 unsuspended portion of the term of imprisonment, the court may revoke probation for
15 any criminal conduct committed during that unsuspended portion of the term of
16 imprisonment.

17 B. If execution of the sentence is stayed, the court may revoke probation for criminal
18 conduct committed during the period of stay or for failure to report as ordered.

19 C. The court may revoke probation if, during any unsuspended portion of the term of
20 imprisonment, an individual sentenced as a repeat sexual assault offender, pursuant to
21 section 1804, subsection 4, refuses to actively participate in a sex offender treatment
22 program in accordance with the expectations and judgment of the treatment
23 providers, when requested to do so by the Department of Corrections.

24 D. The court may revoke probation if, during an unsuspended portion of the term of
25 imprisonment:

26 (1) The individual has contact with a victim with whom the individual has been
27 ordered not to have contact as a condition of probation;

28 (2) In the case of an individual who has been committed to the Department of
29 Corrections, the individual has contact with any victim with whom the individual
30 has been prohibited to have contact by the Department of Corrections; or

31 (3) In the case of an individual who has been committed to a county or regional
32 jail, the individual has contact with any victim with whom the individual has
33 been prohibited to have contact by the county or regional jail.

34 E. As to both the suspended and unsuspended portions of the sentence, the place of
35 imprisonment must be as follows.

36 (1) For a Class D or Class E crime, the court must specify a county jail as the
37 place of imprisonment.

38 (2) For a Class A, Class B or Class C crime, the court must:

39 (a) Specify a county jail as the place of imprisonment for any portion of the
40 sentence that is 9 months or less; and

1 (b) Commit the individual to the Department of Corrections for any portion
2 of the sentence that is more than 9 months.

3 **2. Applicability to prosecution of crime committed prior to September 23, 1983.**
4 In any prosecution for a crime committed prior to September 23, 1983, the court may,
5 with the consent of the defendant, impose a sentence under subsection 1.

6 **§1806. Wholly suspended term of imprisonment with probation**

7 Unless prohibited pursuant to section 1802, subsection 1, paragraphs A to F, the court
8 may sentence an individual to a term of imprisonment not to exceed the maximum term
9 authorized for the crime, suspend the entire term of imprisonment and accompany the
10 suspension with a period of probation not to exceed the maximum period authorized for
11 the crime, to commence on the date the individual goes into actual execution of the
12 sentence.

13 **§1807. Conditions of probation**

14 **1. Purpose of conditions.** If the court imposes a sentencing alternative under
15 section 1502 that includes a period of probation, it shall attach conditions of probation, as
16 authorized by this section, as it considers to be reasonable and appropriate to assist the
17 person to lead a law-abiding life, including, without exception, a condition of probation
18 that the person refrain from criminal conduct.

19 **2. Specific conditions of probation authorized.** As a condition of probation, the
20 court in its sentence may require the person to:

- 21 A. Support the person's dependents and to meet the person's family responsibilities;
- 22 B. Make restitution pursuant to chapter 69 to each victim of the person's crime, or to
23 the county where the offense is prosecuted if the identity of the victim cannot be
24 ascertained or if the victim voluntarily refuses the restitution. If the court orders as a
25 condition of probation that the person forfeit and pay a specific amount of restitution,
26 that order, as a matter of law, also constitutes the imposition of restitution pursuant to
27 chapter 69 as a sentencing alternative and an additional order regarding restitution is
28 unnecessary;
- 29 C. Pursue and maintain approved employment or an approved occupation;
- 30 D. Undergo, as an outpatient, available medical or psychiatric treatment, or to enter
31 and remain, as a voluntary patient, in a specified institution when required for that
32 purpose. Failure to comply with this condition is considered only as a violation of
33 probation and may not, in itself, authorize involuntary treatment or hospitalization.
34 The court may not order and the State may not pay for the person to attend a batterers'
35 intervention program unless the program is certified under Title 19-A, section 4014;
- 36 E. Pursue a prescribed secular course of study or vocational training;
- 37 F. Refrain from frequenting specified places or consorting with specified persons;
- 38 G. Refrain from possessing any firearm or other dangerous weapon;

1 H. Remain within the jurisdiction of the court, unless permission to leave
2 temporarily is granted in writing by the person's probation officer, and to notify the
3 probation officer of any change in the person's address or employment;

4 I. Refrain from drug use and use or excessive use of alcohol;

5 J. Report as directed to the court or the person's probation officer, to answer all
6 reasonable inquiries by the probation officer and to permit the probation officer to
7 visit at reasonable times at the person's home or elsewhere;

8 K. Pay any monetary penalty imposed by the court as part of the sentence;

9 L. Perform specified work for the benefit of the State, a county, a municipality, a
10 school administrative district, other public entity or a charitable institution;

11 M. Participate in an electronic monitoring program, if available; or

12 N. Satisfy any conditions reasonably related to the rehabilitation of the person or the
13 public safety or security.

14 **3. Opportunity to address court regarding probation conditions; written**
15 **statement required.** The person must be given an opportunity to address the court on
16 the conditions that are proposed to be attached and, after sentence, must be given a
17 written statement setting forth the particular conditions on which the person is released on
18 probation.

19 **4. Findings or explanation required in certain cases when completion of**
20 **batterers' intervention program is not ordered as a condition of probation.** If an
21 individual is convicted of a crime under chapter 9 or 13 or section 758 that the State
22 pleads and proves was committed by the individual against a spouse, domestic partner or
23 sexual partner; a former spouse, domestic partner or sexual partner; a victim with whom
24 the individual is living or lived as a spouse; or a victim who is or was a dating partner of
25 the individual and the court does not order as a condition of probation that the individual
26 complete a batterers' intervention program certified pursuant to Title 19-A, section 4014,
27 the court shall make findings on the record of the court's reasons for not ordering the
28 individual to complete a batterers' intervention program. If a plea agreement submitted to
29 the court in accordance with Rule 11A(b) of the Maine Rules of Unified Criminal
30 Procedure does not contain a provision ordering the individual to complete a batterers'
31 intervention program, the attorney for the State shall indicate, in a writing submitted to
32 the court, the basis for the plea agreement's not including completion of a batterers'
33 intervention program as a condition of probation. For purposes of this subsection, "dating
34 partner" means a victim currently or formerly involved in dating the individual, whether
35 or not the individual and the victim are or were sexual partners. For purposes of this
36 subsection, "domestic partner" means one of 2 unmarried adults who are domiciled
37 together under a long-term arrangement that evidences a commitment to remain
38 responsible indefinitely for each other's welfare.

39 **5. Condition of probation that includes psychiatric treatment or mental health**
40 **counseling; notice by court to Department of Health and Human Services.** Before
41 imposing any condition of psychiatric outpatient or inpatient treatment or mental health
42 counseling, the court may request that a report be submitted by an agent of the

1 Department of Health and Human Services who has been designated pursuant to Title
2 34-B, section 1220 for the purpose of assessing the appropriateness of psychiatric
3 treatment or mental health counseling for the individual and the availability of this
4 treatment or counseling. Whether or not a report is requested, the court shall notify the
5 designated agent of the Department of Health and Human Services when any conditions
6 of probation are imposed that include psychiatric outpatient or inpatient treatment or
7 mental health counseling. This notification must include the name and last known
8 address of the individual placed on probation, the name and address of the attorney of
9 record for that individual and the conditions of probation.

10 **6. Supervision fee; determination of amount by court; failure to pay.** The court
11 shall attach as a condition of probation that the person pay, through the Department of
12 Corrections, a supervision fee of between \$10 and \$50 per month, as determined by the
13 court, for the term of probation. If the court does not set a supervision fee, the
14 supervision fee is \$10 per month. Notwithstanding the attachment of supervision fee
15 conditions on more than one sentence, a person on probation on concurrent sentences is
16 required to pay only one supervision fee. In determining whether to set an amount higher
17 than \$10 per month, the court shall take into account the financial resources of the person
18 and the nature of the burden its payment imposes. A person may not be sentenced to
19 imprisonment without probation solely for the reason the person is not able to pay the fee.
20 When a person on probation fails to pay the supervision fee, the court may revoke
21 probation as specified in section 1812, unless the person shows that failure to pay was not
22 attributable to a willful refusal to pay or to a failure on that person's part to make a good
23 faith effort to obtain the funds required for the payment. The court, if it determines that
24 revocation of probation is not warranted, shall issue a judgment for the total amount of
25 the fee and shall issue an order attaching a specified portion of money received by or
26 owed to the person on probation until the total amount of the fee has been paid. If the
27 person makes this showing, the court may allow additional time for payment within the
28 remaining period of probation or reduce the size of the fee to no less than \$10 per month,
29 but may not revoke the requirement to pay the fee unless the remaining period of
30 probation is 30 days or less.

31 **7. Electronic monitoring and substance testing fees; determination of amount**
32 **by court; failure to pay; use of fees.** Upon the request of the Department of
33 Corrections, the court shall attach as a condition of probation that the person pay, through
34 the department, an electronic monitoring fee, a substance testing fee or both, as
35 determined by the court, for the term of probation. In determining the amount of the fees,
36 the court shall take into account the financial resources of the person and the nature of the
37 burden the payment imposes. A person may not be sentenced to imprisonment without
38 probation solely for the reason the person is not able to pay the fees. When a person on
39 probation fails to pay the fees, the court may revoke probation as specified in section
40 1812, unless the person shows that failure to pay was not attributable to a willful refusal
41 to pay or to a failure on that person's part to make a good faith effort to obtain the funds
42 required for the payment. The court, if it determines that revocation of probation is not
43 warranted, shall issue a judgment for the total amount of the fees and shall issue an order
44 attaching a specified portion of money received by or owed to the person on probation
45 until the total amount of the fees has been paid. If the person makes this showing, the
46 court may allow additional time for payment within the remaining period of probation or

1 reduce the size of the fees, but may not revoke the requirement to pay the fees unless the
2 remaining period of probation is 30 days or less. Fees received from a person on
3 probation must be deposited into the department's adult community corrections account,
4 unless the department has required the person to pay fees directly to a provider of
5 electronic monitoring, substance testing or other services. Funds from the adult
6 community corrections account do not lapse and must be used to defray costs associated
7 with the purchase and operation of electronic monitoring and substance testing programs.

8 **8. Condition of probation that includes staying within jurisdiction of court;**
9 **application fee; use of fees.** Whenever the court requires as a condition of probation that
10 the person remain within the jurisdiction of the court, unless permission to leave
11 temporarily is granted in writing by the person's probation officer, the Department of
12 Corrections may impose on a person applying for such permission an application fee of
13 \$25. The department may impose on a person an additional fee of \$25 per month if
14 permission is sought and granted to leave the jurisdiction of the court on a periodic basis.
15 Permission to leave may not be denied or withdrawn solely because the person is not able
16 to pay the application fee or the additional fee. When a person fails to pay a fee imposed
17 under this subsection, the department may refuse to process the application or may
18 withdraw permission to leave if the failure to pay is attributable to the person's willful
19 refusal to pay or to a failure on the person's part to make a good faith effort to obtain the
20 funds required for the payment. Fees received from a person pursuant to this subsection
21 must be deposited into the department's adult community corrections account, which does
22 not lapse, and must be used to defray costs associated with processing the applications,
23 including, but not limited to, the cost of materials, equipment, training for probation
24 officers and administration, and for the department's share of the costs of extraditing
25 persons on probation who are fugitives from justice.

26 **§1808. Community reparations boards**

27 **1. Persons required to appear before board.** If the court imposes a sentencing
28 alternative that includes a period of probation, the court shall require as a condition of
29 probation that the person appear before a community reparations board, referred to in this
30 section as "the board," and abide by any requirement imposed by the board if:

31 A. The person has been sentenced to a suspended term of imprisonment with
32 probation or a split sentence of imprisonment with probation the initial portion of
33 which must be served in a county jail under section 1805;

34 B. The person has not been convicted of a crime under chapter 11 or a crime of
35 domestic violence;

36 C. The Department of Corrections recommends that appearance before the board be
37 required; and

38 D. The court finds no circumstance that makes appearance inappropriate.

39 **2. Duties of person required to appear before board.** A person required to appear
40 before a community reparations board shall:

41 A. Cooperate with the preparation of the intake report to be submitted to the board;

- 1 B. Appear before the board as directed by the person's probation officer; and
- 2 C. Cooperate with the board.

3 **3. Powers of board.** The powers of a community reparations board are limited to
4 requiring the person to:

- 5 A. Pay restitution in accordance with chapter 69;
- 6 B. Perform community service;
- 7 C. Complete a prescribed course of counseling or education;
- 8 D. Refrain from frequenting specified places or consorting with specified persons;
- 9 E. Comply with reparative sanctions other than restitution, including, but not limited
10 to, writing an apology to the victim and fulfilling crime-impact education measures;
11 and
- 12 F. Report to the board regarding compliance with the requirements of this
13 subsection.

14 **4. Time limit on requirement imposed by board.** A requirement imposed by a
15 community reparations board may not extend longer than 6 months, except the
16 requirement to pay restitution.

17 **5. Violation.** A person who fails to abide by the requirements of this section
18 commits a violation of probation.

19 **§1809. Commencement of probation revocation proceedings by arrest**

20 **1. Authority of probation officer.** If a probation officer has probable cause to
21 believe that a person on probation has violated a condition of that person's probation, that
22 officer may arrest the person or cause the person to be arrested for the alleged violation.
23 If the probation officer cannot, with due diligence, locate the person, the officer shall file
24 a written notice of this fact with the court that placed the person on probation. Upon the
25 filing of that written notice, the court shall issue a warrant for the arrest of that person.

26 **2. Probable cause hearing; timing; evidence.** A person arrested pursuant to
27 subsection 1, with or without a warrant, must be given a probable cause hearing as soon
28 as reasonably possible, but not later than on the 5th day after arrest, excluding Saturdays,
29 Sundays and holidays. A probable cause hearing is not given if, within the 5-day period,
30 the person is released from custody or is afforded an opportunity for a court hearing on
31 the alleged violation. A probable cause hearing is not required if the person is charged
32 with or convicted of a new offense and is incarcerated as a result of the pending charge or
33 conviction.

34 A. Whenever a person arrested pursuant to subsection 1 is entitled to a probable
35 cause hearing pursuant to this subsection, unless the person waives the right to the
36 hearing, that hearing must be held at the initial appearance and may be held in the
37 court located as near to the place where the violation is alleged to have taken place as
38 is reasonable under the circumstances. If it is alleged that the person violated
39 probation because of the commission of a new offense, the probable cause hearing is

1 limited to the issue of identification if probable cause on the new offense has already
2 been found by the District Court or by the Superior Court or the person has been
3 indicted, has waived indictment or has been convicted.

4 B. Evidence presented to establish probable cause may include affidavits and other
5 reliable hearsay evidence as permitted by the court.

6 C. If the court determines that there is not probable cause to believe that the person
7 has violated a condition of probation, the court shall order the person's release.

8 **3. Failure to hold probable cause hearing within required time period.** If a
9 probable cause hearing is not held as required by subsection 2 within the time period
10 specified in subsection 2, it is grounds for the person's release on personal recognizance
11 pending further proceedings.

12 **§1810. Commencement of probation revocation proceedings by summons**

13 **1. Authority of probation officer.** If a probation officer has probable cause to
14 believe that a person on probation has violated a condition of probation, that officer may
15 deliver to that person, or cause to be delivered to that person, a summons ordering that
16 person to appear for a court hearing on the alleged violation.

17 **2. Contents of summons; probation officer to file motion for revocation.** The
18 summons delivered pursuant to subsection 1 must include the signature of the probation
19 officer; a brief statement of the alleged violation; the time and place of the alleged
20 violation; and the time, place and date the person is to appear in court or a statement that
21 the court will notify the person of the time, place and date to appear. As soon as practical
22 after service of the summons, the probation officer shall file with the court a motion for
23 revocation of probation that sets forth the facts underlying the alleged violation.

24 **3. Initial appearance.** A person appearing on a motion to revoke probation
25 pursuant to a summons must be given an initial appearance as provided in section 1811,
26 subsection 4.

27 **4. Failure to appear.** If the person fails to appear in court after having been served
28 with a summons, the court may issue a warrant for the arrest of the person. After arrest,
29 the person must be given a probable cause hearing as provided in section 1809,
30 subsection 2 and an initial appearance as provided in section 1811, subsection 3.

31 **§1811. Initial proceedings on probation violation; filing of motion; initial**
32 **appearance**

33 **1. Timing of motion for probation revocation.** A motion for probation revocation,
34 which first must be approved by the prosecuting attorney, must be filed within 3 days,
35 excluding Saturdays, Sundays and holidays, of the arrest of a person on probation
36 pursuant to section 1809.

37 **2. Contents of motion.** The motion must set forth the facts underlying the alleged
38 violation and, unless the person is to be given a probable cause hearing at the initial
39 appearance as provided in section 1809, must be accompanied by a copy of the summons
40 delivered to the person.

1 **3. Timing of initial appearance on motion receipt; copy of motion to person on**
2 **probation.** Upon receipt of a motion for revocation of probation with respect to a person
3 arrested pursuant to section 1809 or section 1810, subsection 4 who is not sooner
4 released, the court shall provide the person with an initial appearance on the revocation of
5 probation within 5 days after the arrest, excluding Saturdays, Sundays and holidays. A
6 copy of the motion must be furnished to the person prior to or at the initial appearance.

7 **4. Procedure at initial appearance.** At the initial appearance, the court shall advise
8 the person of the contents of the motion, the right to a hearing on the motion, the right to
9 be represented by counsel at a hearing and the right to appointed counsel. If the person
10 cannot afford counsel, the court shall appoint counsel for the person. The court shall ask
11 the person to admit or deny the alleged violation. If the person refuses to admit or deny, a
12 denial must be entered. In the case of a denial, the court shall set the motion for hearing
13 and may commit the person, with or without bail, pending hearing. If the person is
14 committed without bail pending hearing, the date of the hearing must be set no later than
15 45 days from the date of the initial appearance.

16 **5. Bail determination.** In deciding whether to set bail under this section and in
17 setting the kind and amount of that bail, the court must be guided by the standards of
18 post-conviction bail in Title 15, section 1051, subsection 2-A. Appeal is governed by
19 Title 15, section 1051, subsections 5 and 6. Bail set under this section is also governed
20 by the sureties and other forms of bail provisions in Title 15, chapter 105-A, subchapter 4
21 and the enforcement provisions in Title 15, chapter 105-A, subchapter 5, articles 1 and 3,
22 including the appeal provisions in Title 15, section 1099-A, subsection 2.

23 **6. Effect of failure to meet time limits.** Failure to comply with the time limits set
24 forth in this section is not grounds for dismissal of a motion for probation revocation but
25 may be grounds for the release of the person on probation on personal recognizance
26 pending further proceedings.

27 **§1812. Court hearing on probation revocation**

28 **1. Place of hearing.** The hearing on a motion to revoke probation must be held in
29 the court that sentenced the person to probation in either the county or division in which
30 the person resides or is incarcerated, unless the court orders otherwise in the interests of
31 justice. A motion for revocation of probation need not be heard by the justice or judge
32 who originally imposed probation, but may be heard by any justice or judge.

33 **2. Hearing procedure.** If a hearing is held, the person on probation must be given
34 the opportunity to confront and cross-examine witnesses against the person, to present
35 evidence on that person's own behalf and to be represented by counsel. If the person
36 cannot afford counsel, the court shall appoint counsel for the person. Assignment of
37 counsel, to the extent not covered in this subsection, and withdrawal of counsel must be
38 in accordance with the Maine Rules of Unified Criminal Procedure.

39 **3. Commission of new crime while on probation.** When the alleged violation
40 constitutes a crime for which the person on probation has not been convicted, the court
41 may revoke probation if it finds by a preponderance of the evidence that the person
42 committed the crime. If the person is subsequently convicted of the crime, or any other

1 crime or crimes arising out of the same conduct, sentencing is subject to the requirements
2 of section 1608. If concurrent terms of imprisonment are imposed and the terms do not
3 commence on the same date, any time served as a result of the probation revocation must
4 be deducted from the time the person is required to serve as a result of the new
5 conviction.

6 **4. Failure to comply with requirement of probation.** If the alleged violation does
7 not constitute a crime and the court finds by a preponderance of the evidence that the
8 person on probation has inexcusably failed to comply with a requirement imposed as a
9 condition of probation, it may revoke probation.

10 **5. Conviction for new crime while on probation.** If a person on probation is
11 convicted of a new crime during the period of probation, the court may sentence that
12 person for the crime and revoke probation. If the person has been sentenced for the new
13 crime and probation revocation proceedings are subsequently commenced, the court that
14 conducts the revocation hearing may revoke probation. Sentencing for the multiple
15 offenses is subject to section 1608. If concurrent terms of imprisonment are imposed and
16 the terms do not commence on the same date, any time served as a result of the new
17 conviction must be deducted from the time the person is required to serve as a result of
18 the probation revocation.

19 **6. Authority of court finding violation of probation.** Upon a finding of a violation
20 of probation, the court may vacate all, part or none of the suspension of execution as to
21 imprisonment or fine specified when probation was granted, considering the nature of the
22 violation and the reasons for granting probation. The remaining portion of the sentence
23 for which suspension of execution is not vacated upon the revocation of probation
24 remains suspended and is subject to revocation at a later date. During the service of that
25 portion of the sentence imposed for which the suspension of execution was vacated upon
26 revocation, the running of the period of probation must be interrupted and resumes again
27 upon release. If the court finds a violation of probation but vacates none of the suspended
28 sentence, the running of the period of probation resumes upon entry of that final
29 disposition. The court may nevertheless revoke probation and vacate the suspension of
30 execution as to the remainder of the suspended sentence or a portion thereof for any
31 criminal conduct committed during the service of that portion of the sentence for which
32 the suspension of execution was vacated upon revocation.

33 **7. Tolling of period of probation; conditions of probation continue in effect.** The
34 running of the period of probation is tolled upon either the delivery of the summons, the
35 filing of the written notice with the court that the person cannot be located or the arrest of
36 the person. If the motion is dismissed or withdrawn, or if the court finds no violation of
37 probation, the running of the period of probation is deemed not to have been tolled. The
38 conditions of probation continue in effect during the tolling of the running of the period
39 of probation, and any violation of a condition subjects the person to a revocation of
40 probation pursuant to the provisions of this subchapter.

41 **8. Disposition agreement by parties in return for admission of probation**
42 **violation.** If the attorney for the State and the attorney for the person on probation or the
43 person on probation reach agreement that, in return for an admission of a violation of
44 probation, the attorney for the State will dismiss other charges or the attorney for the

1 State will not oppose the requested disposition requested by the person or the attorney for
2 the State will recommend a particular disposition or both sides will recommend a
3 particular disposition, and the court at the time of disposition intends to enter a
4 disposition less favorable to the person than that recommended, the court shall on the
5 record:

6 A. Inform the parties of this intention;

7 B. Advise the person personally in open court that the court is not bound by the
8 recommendation;

9 C. Advise the person that if the person does not withdraw the admission, the
10 disposition of the motion will be less favorable to the person than that recommended;
11 and

12 D. Give the person the opportunity to withdraw the admission.

13 The court shall, if possible, inform the person of the intended disposition.

14 **9. Deduction of time for detention pending revocation proceeding.** Whenever a
15 person is detained in any correctional facility, mental health institute or county jail
16 pending a probation revocation proceeding, and not in execution of any other sentence of
17 confinement, that period of detention must be deducted from the time the person is
18 required to serve under that portion of the sentence for which the suspension of execution
19 was vacated as a result of the probation revocation. A person who is simultaneously
20 detained for conduct for which the person receives a consecutive term of imprisonment is
21 not entitled to receive a day-for-day deduction from the consecutive term of
22 imprisonment for the period of simultaneous detention except for any period of detention
23 that is longer than the prior term of imprisonment.

24 **10. Respecification of place of imprisonment following vacation of suspension of**
25 **sentence.** Whenever a previously suspended sentence of imprisonment for a Class A,
26 Class B or Class C crime is vacated, in whole or in part, as the result of a probation
27 revocation, the court must respecify the place of imprisonment for both the portion
28 required to be served and any remaining suspended portion, if necessary, to carry out the
29 intent of section 1805, subsection 1, paragraph D.

30 **11. Effect of vacating suspension while person in execution of unsuspended**
31 **portion of sentence.** If a probation revocation proceeding results in the court vacating a
32 part of the suspension of execution as to imprisonment while the person is in execution of
33 the initial unsuspended portion of the sentence, the portion of imprisonment to be served
34 as a result of the vacating commences only after the initial unsuspended portion of
35 imprisonment has been fully served. If separate probation revocation proceedings result
36 in the vacating of 2 or more parts of the suspension of execution as to imprisonment on
37 the same sentence, the portions to be served must be served successively.

38 **§1813. Review**

39 **1. Discretionary appeal to Law Court.** Review of a revocation of probation
40 pursuant to section 1812 must be by appeal to the Law Court. A person whose probation
41 is revoked may not appeal as of right. The time for taking the appeal and the manner and

1 any conditions for the taking of the appeal are as the Supreme Judicial Court provides by
2 rule.

3 **2. Assignment and withdrawal of counsel.** Assignment and withdrawal of counsel
4 for an appeal under this section must be in accordance with the Maine Rules of Unified
5 Criminal Procedure.

6 **§1814. Additional conditions in lieu of probation revocation proceedings**

7 Whenever a probation officer has probable cause to believe that a person under the
8 supervision of that probation officer has violated a condition of probation but the
9 violation does not constitute a crime, the probation officer, instead of commencing a
10 probation revocation proceeding under section 1809, may offer to the person the option of
11 adding one or more of the following conditions to the person's probation:

12 **1. Participation in public restitution program or treatment program.** The
13 person will participate in a public restitution program or treatment program administered
14 through a correctional facility or county jail; or

15 **2. Residence at correctional facility or county jail.** The person will reside at a
16 correctional facility or county jail for a period of time not to exceed 90 days.

17 If the person agrees in writing to the additional conditions under subsection 1 or 2,
18 the conditions must be implemented. If the person does not agree or if the person fails to
19 fulfill the additional conditions to the satisfaction of the probation officer, the probation
20 officer may commence probation revocation proceedings under section 1809 or 1810 for
21 the violation that the probation officer had probable cause to believe occurred. If the
22 person fulfills the additional conditions to the satisfaction of the probation officer, the
23 probation officer shall so notify the person in writing and the probation officer may not
24 commence probation revocation proceedings for the violation that the probation officer
25 had probable cause to believe occurred.

26 **SUBCHAPTER 2**

27 **ADMINISTRATIVE RELEASE**

28 **§1851. Eligibility for sentencing alternative that includes period of administrative**
29 **release; exceptions**

30 The court may sentence a person who has been convicted of a Class D or Class E
31 crime or a Class C crime under Title 29-A, former section 2557, section 2557-A or
32 section 2558 to a sentencing alternative under section 1502, subsection 2, paragraphs I, J
33 and K for an individual and section 1502, subsection 7, paragraph E for an organization,
34 unless:

35 **1. Sentencing alternative includes probation.** The court sentences the person to a
36 sentencing alternative under section 1502 that includes a period of probation; or

37 **2. Sentencing alternative diminishes gravity of crime.** The court finds that such a
38 sentence would diminish the gravity of the crime for which that person was convicted.

1 **§1852. Period of administrative release**

2 **1. Time limit.** A period of administrative release imposed pursuant to this
3 subchapter may not exceed one year.

4 **2. Modification of requirements.** During the period of administrative release and
5 upon application of a person placed on administrative release or of the attorney for the
6 State or upon the court's own motion, the court, after notice to the attorney for the State
7 and the person and a hearing, may modify the requirements imposed by the court, add
8 further requirements or release the person of any requirement imposed by the court that,
9 in the court's opinion, imposes on the person an unreasonable burden.

10 **3. Inability to meet requirement; duty on person to bring motion.** During the
11 period of administrative release, if the person cannot meet a requirement of
12 administrative release imposed by the court, the person shall bring a motion pursuant to
13 subsection 2.

14 **4. Termination by court.** On application of the attorney for the State or of the
15 person placed on administrative release or on the court's own motion, the court may
16 terminate a period of administrative release and discharge the person at any time earlier
17 than that provided in the sentence made pursuant to subsection 1 if warranted by the
18 conduct of the person. The court may not order a termination of the period of
19 administrative release and discharge upon the motion of the person placed on
20 administrative release unless notice of the motion is given to the attorney for the State by
21 the person placed on administrative release. The termination of the period of
22 administrative release and discharge relieves the person placed on administrative release
23 of any obligations imposed by the sentence of administrative release.

24 **5. Termination to prevent delay of consecutive term of imprisonment.** The
25 court, in order to comply with section 1608, subsection 7, shall terminate a period of
26 administrative release that would delay commencement of a consecutive unsuspended
27 term of imprisonment.

28 **§1853. Suspended sentence with administrative release**

29 **1. Suspension of term of imprisonment accompanied by administrative release.**
30 The court may sentence a person to a term of imprisonment not to exceed the maximum
31 term authorized for a Class D or Class E crime or the Class C crime under Title 29-A,
32 former section 2557, section 2557-A or section 2558, suspend the term of imprisonment
33 in whole or in part and accompany the suspension with a period of administrative release.

34 **2. Suspension of fine accompanied by administrative release.** The court may
35 sentence a person to a fine, not to exceed the maximum fine authorized for a Class D or
36 Class E crime or the Class C crime under Title 29-A, former section 2557, section
37 2557-A or section 2558, suspend the fine in whole or in part and accompany the
38 suspension with a period of administrative release.

1 **§1854. Requirements of administrative release**

2 If the court imposes a suspended sentence with administrative release under section
3 1853, the court shall attach requirements of administrative release, as authorized by this
4 section, as the court determines to be reasonable and appropriate to help ensure
5 accountability and rehabilitation of the person.

6 **1. Mandatory requirements.** The court-imposed requirements of administrative
7 release must include a requirement that the person refrain from criminal conduct and that
8 the person pay all assessments, surcharges, other fees and costs required by law.

9 **2. Discretionary requirements.** In addition to the requirements in subsection 1, the
10 court in its sentence may require the person:

11 A. To pay to the appropriate county an administrative supervision fee of not more
12 than \$50 per month, as determined by the court, for the term of the administrative
13 release. In determining the amount of the fee, the court shall take into account the
14 financial resources of the person and the nature of the burden its payment imposes.
15 When a person fails to pay the administrative supervision fee, the court may revoke
16 administrative release as provided in sections 1855 and 1856 unless the person shows
17 that failure to pay was not attributable to a willful refusal to pay or to a failure on that
18 person's part to make a good faith effort to obtain the funds required for the payment;

19 B. To pay a fine imposed by the court as part of the sentence;

20 C. To make restitution to each victim of the crime imposed by the court as part of the
21 sentence;

22 D. To perform community service work imposed by the court as part of the sentence;
23 or

24 E. To satisfy any requirement reasonably related to helping ensure the accountability
25 and rehabilitation of the person.

26 **3. Opportunity to address court regarding requirements; written statement of**
27 **requirements to be provided.** The person must be given an opportunity to address the
28 court on the requirements that are proposed to be attached pursuant to subsections 1 and 2
29 and must, after the sentencing, be given a written statement setting forth the specific
30 requirements on which the person is being administratively released.

31 **§1855. Commencement of administrative release revocation proceeding**

32 **1. Motion to revoke administrative release.** If during the period of administrative
33 release the attorney for the State has probable cause to believe that the person placed on
34 administrative release has violated a requirement of administrative release, the attorney
35 for the State may file a motion with the court seeking to revoke administrative release.
36 The motion must set forth the facts underlying the alleged violation.

37 **2. Summons.** A summons may be used to order a person who was placed on
38 administrative release to appear on a motion to revoke that person's administrative
39 release.

1 **3. Initial appearance.** A person placed on administrative release appearing on a
2 motion to revoke administrative release pursuant to a summons must be afforded an
3 initial appearance as provided in section 1811, subsection 4.

4 **4. Failure to appear following service of summons.** If a person placed on
5 administrative release fails to appear in court after having been served with a summons,
6 the court may issue a warrant for the arrest of the person. After arrest of the person, the
7 court shall afford the person an initial appearance as provided in section 1811, subsection
8 4; if the person is retained in custody, section 1811, subsection 3 also applies.

9 **5. Arrest of person for violation of requirement of administrative release; copy**
10 **of motion to be furnished; timing of initial appearance.** If during the period of
11 administrative release the attorney for the State has probable cause to believe that the
12 person placed on administrative release has violated a requirement of administrative
13 release, the attorney for the State may apply for a warrant for the arrest of the person or
14 request that a warrantless arrest be made of the person pursuant to section 15, subsection
15 1, paragraph A, subparagraph (15). The court shall provide the person with an initial
16 appearance on the revocation of administrative release within 5 days after arrest unless
17 the person is released before that. A copy of the motion must be furnished to the person
18 prior to or at the initial appearance. The initial appearance is governed by section 1811,
19 subsection 4. Bail is governed by section 1811, subsections 5 and 6.

20 **§1856. Court hearing on administrative release revocation**

21 The hearing on a motion to revoke administrative release is governed by section
22 1812.

23 **§1857. Review**

24 Review of a revocation of administrative release pursuant to section 1856 must be by
25 appeal, as provided under section 1813.

26 **SUBCHAPTER 3**

27 **SUPERVISED RELEASE FOR SEX OFFENDERS**

28 **§1881. Inclusion of period of supervised release after imprisonment**

29 **1. Mandatory imposition of supervised release.** If a person is convicted of gross
30 sexual assault with a person who has not yet attained 12 years of age, in violation of
31 section 253, subsection 1, paragraph C, the court, in addition to imposing as part of the
32 sentence a definite term of imprisonment in accordance with section 253-A, subsection 2,
33 shall impose as part of the sentence a period of supervised release of up to life to
34 immediately follow that imprisonment. The period of supervised release commences on
35 the date the person is released from confinement pursuant to section 2314 and must
36 include the best available monitoring technology for the full period of supervised release.

37 **2. Discretionary imposition of supervised release.** If a person is convicted of
38 gross sexual assault in violation of any provision of section 253 other than section 253,
39 subsection 1, paragraph C, the court, if it imposes as part of the sentence a definite term

1 of imprisonment that does not include a period of probation, also may impose as part of
2 the sentence a period of supervised release to immediately follow that imprisonment. The
3 period of supervised release commences on the date the person is released from
4 confinement pursuant to section 2314.

5 If a person has been convicted of violating any provision of section 253 other than section
6 253, subsection 1, paragraph C, the authorized period of supervised release is:

7 A. Any period of years for a person sentenced as a repeat sexual assault offender
8 pursuant to section 253-A, subsection 1; and

9 B. For a person not sentenced under section 253-A, subsection 1 or 2, a period not to
10 exceed 10 years for a Class A violation of section 253 and a period not to exceed 6
11 years for a Class B or Class C violation of section 253.

12 **3. Modification of requirements.** During the period of supervised release specified
13 in the sentence made pursuant to subsections 1 and 2, and upon application of a person on
14 supervised release or the person's probation officer, or upon the court's own motion, the
15 court, after notice to the probation officer and the person on supervised release and a
16 hearing, may modify the requirements imposed by the court, add further requirements
17 authorized by section 1882 or relieve the person on supervised release of any requirement
18 imposed by the court that, in its opinion, imposes on the person an unreasonable burden.

19 **4. Ex parte modification of requirements for immediate necessity.**
20 Notwithstanding subsection 3, the court may grant, ex parte, a motion brought by the
21 probation officer of the person on supervised release to add further requirements if the
22 court determines that all reasonable efforts have been made to give written or oral notice
23 to the person on supervised release and the requirements are immediately necessary to
24 protect the safety of an individual or the public. Any requirements added pursuant to an
25 ex parte motion do not take effect until written notice of the requirements, along with
26 written notice of the scheduled date, time and place when the court will hold a hearing on
27 the added requirements, is given to the person on supervised release.

28 **5. Termination by court.** On application of the person on supervised release or the
29 person's probation officer, or on the court's own motion, and if warranted by the conduct
30 of the person, the court may terminate a period of supervised release and discharge the
31 person at any time earlier than that provided in the sentence made pursuant to subsections
32 1 and 2. A termination and discharge may not be ordered unless notice of the motion is
33 given to the probation officer and the attorney for the State. A termination and discharge
34 relieves the person on supervised release of any obligations imposed by the sentence of
35 supervised release.

36 **6. Termination to prevent delay of consecutive term of imprisonment.** The
37 court, in order to comply with section 1608, subsection 7, shall terminate a period of
38 supervised release that would delay commencement of a consecutive unsuspended term
39 of imprisonment.

40 **7. Revoked period of supervised release to be served in prison.** The court may
41 revoke a period of supervised release pursuant to section 1883 for any ground specified in
42 subsection 8. If the court revokes a period of supervised release, the court shall require

1 the person to serve time in prison under the custody of the Department of Corrections.
2 This time in prison may equal all or part of the period of supervised release, without
3 credit for time served on post-release supervision. The remaining portion of the period of
4 supervised release that is not required to be served in prison, if any, may not run during
5 the time in prison and must resume again after the person's release and is subject to
6 revocation at a later date.

7 **8. Grounds for revocation.** The court may revoke a period of supervised release
8 for:

9 A. A violation of supervised release;

10 B. Criminal conduct committed during the term of imprisonment; or

11 C. Refusal during the term of imprisonment to actively participate, when requested
12 to do so by the Department of Corrections, in a sex offender treatment program in
13 accordance with the expectations and judgment of the treatment providers.

14 **§1882. Conditions of supervised release**

15 If the court imposes a sentence that includes a period of supervised release, it shall set
16 conditions of supervised release. The conditions of release that apply to probation under
17 section 1807 apply to conditions of supervised release. The court may also set conditions
18 of supervised release that it determines to be reasonable and appropriate to manage the
19 person's behavior.

20 **§1883. Revocation procedures**

21 The procedures, rights and responsibilities that apply to probation revocation under
22 sections 1809 to 1812, including bail under section 1811, subsections 5 and 6 and
23 appellate review of revocation under section 1813, apply to revocation of supervised
24 release.

25 **SUBCHAPTER 4**

26 **DEFERRED DISPOSITION**

27 **§1901. Eligibility for deferred disposition**

28 A person who has pleaded guilty to a Class C, Class D or Class E crime and who
29 consents to a deferred disposition in writing is eligible for a deferred disposition.

30 **§1902. Deferred disposition**

31 **1. Authority of court to order deferment and impose requirements;**
32 **administrative supervision fee.** Following the acceptance of a plea of guilty for a crime
33 for which a person is eligible for a deferred disposition under section 1901, the court may
34 order sentencing deferred to a date certain or determinable and impose requirements upon
35 the person, to be in effect during the period of deferment, considered by the court to be
36 reasonable and appropriate to assist the person to lead a law-abiding life. The court-
37 imposed deferment requirements must include a requirement that the person refrain from

1 criminal conduct and may include a requirement that the person pay to the appropriate
2 county an administrative supervision fee of not more than \$50 per month, as determined
3 by the court, for the term of the deferment. In determining the amount of the fee, the
4 court shall take into account the financial resources of the person and the nature of the
5 burden its payment imposes. In exchange for the deferred sentencing, the person shall
6 abide by the court-imposed deferment requirements. Unless the court orders otherwise,
7 the requirements are immediately in effect.

8 **2. Modification of requirements.** During the period of deferment and upon
9 application of the person granted deferred disposition pursuant to subsection 1 or of the
10 attorney for the State or upon the court's own motion, the court may, after a hearing upon
11 notice to the attorney for the State and the person, modify the requirements imposed by
12 the court, add further requirements or relieve the person of any requirement imposed by
13 the court that, in the court's opinion, imposes an unreasonable burden on the person.

14 **3. Inability to meet requirement; duty on person to bring motion.** During the
15 period of deferment, if the person cannot meet a deferment requirement imposed by the
16 court, the person shall bring a motion pursuant to subsection 2.

17 **4. Determination of date of conviction; bail.** For purposes of a deferred
18 disposition, a person is deemed to have been convicted when the court imposes the
19 sentence. Notwithstanding Title 15, chapter 105-A, subchapter 3, prior to sentence
20 imposition, preconviction bail applies to the person.

21 **5. Preferred disposition in prosecution for possession of schedule W drug.** A
22 deferred disposition is a preferred disposition in a prosecution for possession of schedule
23 W drugs under section 1107-A, subsection 1, paragraphs B and B-1.

24 **§1903. Court hearing as to final disposition**

25 **1. Final disposition following period of deferment.** Unless a court hearing is
26 sooner held under subsection 3, and except as provided in subsection 2, at the conclusion
27 of the period of deferment, after notice, a person who was granted deferred disposition
28 pursuant to section 1902 shall return to court for a hearing on final disposition. If the
29 person demonstrates by a preponderance of the evidence that the person has complied
30 with the court-imposed deferment requirements, the court shall impose a sentencing
31 alternative authorized for the crime to which the person pled guilty and consented to in
32 writing at the time sentencing was deferred or as amended by agreement of the parties in
33 writing prior to sentencing, unless the attorney for the State, prior to sentence imposition,
34 moves the court to allow the person to withdraw the plea of guilty. Except over the
35 objection of the person, the court shall grant the State's motion. If the court grants the
36 State's motion, the attorney for the State shall dismiss the pending charging instrument
37 with prejudice. If the court finds that the person has inexcusably failed to comply with
38 the court-imposed deferment requirements, the court shall impose a sentencing alternative
39 authorized for the crime to which the person pled guilty.

40 **2. Consensual withdrawal of guilty plea by parties.** Notwithstanding subsection
41 1, if at the conclusion of the period of deferment and prior to sentence imposition the
42 attorney for the State in writing moves the court to allow the person to withdraw the plea

1 of guilty and the person in writing agrees to such withdrawal, the court may, without a
2 hearing on final disposition and in the absence of the person, grant the attorney for the
3 State's motion and allow the person to withdraw the plea. Following such court action,
4 the attorney for the State shall dismiss the pending charging instrument with prejudice.

5 **3. Violation of deferment requirement.** If during the period of deferment the
6 attorney for the State has probable cause to believe that a person who was granted
7 deferred disposition pursuant to section 1902 has violated a court-imposed deferment
8 requirement, the attorney for the State may move the court to terminate the remainder of
9 the period of deferment and impose sentence. Following notice and hearing, if the
10 attorney for the State proves by a preponderance of the evidence that the person has
11 inexcusably failed to comply with a court-imposed deferment requirement, the court may
12 continue the running of the period of deferment with the requirements unchanged, modify
13 the requirements, add further requirements or terminate the running of the period of
14 deferment and impose a sentencing alternative authorized for the crime to which the
15 person pled guilty. When a person fails to pay an administrative supervision fee imposed
16 under section 1902, subsection 1, the court may terminate the running of the period of
17 deferment and impose sentence unless the person shows that failure to pay was not
18 attributable to a willful refusal to pay or to a failure on that person's part to make a good
19 faith effort to obtain the funds required for the payment. If the court finds that the person
20 has not inexcusably failed to comply with a court-imposed deferment requirement, the
21 court may order that the running of the period of deferment continue or, after notice and
22 hearing, take any other action permitted under this subchapter.

23 **4. Place of hearing.** A hearing under this section or section 1902 must be held in
24 the court that ordered the deferred disposition. The hearing need not be conducted by the
25 justice or judge who originally ordered the deferred disposition.

26 **5. Rights of person at hearing.** The person at a hearing under this section or
27 section 1902 must be given the opportunity to confront and cross-examine witnesses
28 against the person, to present evidence on that person's own behalf and to be represented
29 by counsel. If the person who was granted deferred disposition pursuant to section 1902
30 cannot afford counsel, the court shall appoint counsel for the person. Assignment of
31 counsel and withdrawal of counsel must be in accordance with the Maine Rules of
32 Unified Criminal Procedure.

33 **6. Summons to appear at hearing; failure to appear.** A summons may be used to
34 order a person who was granted deferred disposition pursuant to section 1902 to appear
35 for a hearing under this section. If the person fails to appear after having been served
36 with a summons, the court may issue a warrant for the arrest of the person.

37 **7. Authority of attorney for State regarding violation of condition of deferment.**
38 If during the period of deferment the attorney for the State has probable cause to believe
39 that a person who was granted deferred disposition pursuant to section 1902 has violated
40 a court-imposed deferment requirement, the attorney for the State may apply for a
41 warrant for the arrest of the person or request that a warrantless arrest be made of the
42 person pursuant to section 15, subsection 1, paragraph A, subparagraph (17).

1 **§1904. Limited review by appeal**

2 A person may not attack the legality of a deferred disposition, including a final
3 disposition, except that a person who has been determined by a court to have inexcusably
4 failed to comply with a court-imposed deferment requirement and thereafter has been
5 sentenced to an alternative authorized for the crime may appeal to the Law Court, but not
6 as of right. The time for taking the appeal and the manner and any conditions for the
7 taking of the appeal are as the Supreme Judicial Court provides by rule.

8 **CHAPTER 69**

9 **RESTITUTION**

10 **§2001. Purpose**

11 The Legislature finds and declares that the victims of crimes often suffer losses
12 through no fault of their own and for which there is no compensation. It also finds that
13 repayment, in whole or in part, by the offender to the victim of the offender's crime can
14 operate to rehabilitate the offender in certain instances. It is the purpose of this chapter to
15 encourage the compensation of victims by the person most responsible for the loss
16 incurred by the victim, the offender. Restitution by the offender can serve to reinforce the
17 offender's sense of responsibility for the offense, to provide the offender the opportunity
18 to pay the offender's debt to society and to the offender's victim in a constructive manner
19 and to ease the burden of the victim as a result of the criminal conduct.

20 The Legislature recognizes that a crime is an offense against society as a whole, not
21 only against the victim of the crime, and that restitution for victims is therefore ancillary
22 to the central objectives of the criminal law. It intends restitution to be applied only when
23 other purposes of sentencing can be appropriately served.

24 The Legislature does not intend the use of restitution to result in preferential
25 treatment for offenders with substantial financial resources.

26 **§2002. Definitions**

27 As used in this chapter, unless the context otherwise indicates, the following words
28 have the following meanings.

29 **1. Collateral source.** "Collateral source" means a source of benefits or advantages
30 for economic loss resulting from a crime, which the victim has received, or which is
31 readily available to the victim from:

32 A. The Government of the United States or any agency thereof, a state or any of its
33 political subdivisions or an instrumentality of 2 or more states unless the law
34 providing for the benefits or advantages makes them excess or secondary to benefits
35 under this chapter;

36 B. Social security, Medicare and Medicaid;

37 C. Workers' compensation;

38 D. Wage continuation programs of any employer;

1 E. Proceeds of a contract of insurance payable to the victim for loss that the victim
2 sustained because of the criminal conduct; or

3 F. A contract providing prepaid hospital and other health care services or benefits for
4 disability.

5 **2. Dependent.** "Dependent" means an individual who is wholly or partially
6 dependent upon the victim for care or support and includes a child of the victim born after
7 the victim's death.

8 **3. Economic loss.** "Economic loss" includes economic detriment consisting of
9 environmental clean-up expense, property loss, allowable expense, work loss,
10 replacement services loss and, if injury causes death, dependent's economic loss and
11 dependent's replacement services loss. Noneconomic detriment is not loss. Economic
12 detriment is loss although caused by pain and suffering or physical impairment.
13 "Economic loss" includes expenses of an emergency response by any public agency and
14 critical investigation expenses.

15 A. "Allowable expense" means reasonable charges incurred for reasonably needed
16 products, services and accommodations, including those for medical care,
17 rehabilitation, rehabilitative occupational training, counseling services and other
18 remedial treatment and care, and nonmedical remedial care and treatment rendered in
19 accordance with a recognized religious method of healing. The term includes
20 reasonable and customary charges incurred for expenses in any way related to
21 funeral, cremation and burial. It does not include that portion of a charge for a room
22 in a hospital, clinic, convalescent or nursing home, or any other institution engaged in
23 providing nursing care and related services, in excess of a reasonable and customary
24 charge for semiprivate accommodations, unless other accommodations are medically
25 required.

26 B. "Critical investigation expense" means a necessary expense incurred by a
27 government or by a victim while investigating or prosecuting suspected criminal
28 conduct. "Critical investigation expense" is limited to the cost of an audit or other
29 financial analysis when that analysis is necessary to determine whether and to what
30 extent a victim has suffered financial harm from criminal conduct by an employee or
31 other person in a position of trust and the cost of analysis of suspected illegal drugs.

32 C. "Dependent's economic loss" means loss after a decedent's death of contributions
33 of things of economic value to the decedent's dependents, not including services they
34 would have received from the decedent if the decedent had not suffered the fatal
35 injury, less expenses of the dependents avoided by reason of decedent's death.

36 D. "Dependent's replacement loss" means loss reasonably incurred by dependents
37 after a decedent's death in obtaining ordinary and necessary services in lieu of those
38 the decedent would have performed for their benefit if the decedent had not suffered
39 the fatal injury, less expenses of the dependents avoided by reason of the decedent's
40 death and not subtracted in calculating dependent's economic loss.

41 E. "Environmental clean-up expense" means any reasonable expense incurred for
42 products and services needed to clean up any harm or damage caused to the
43 environment, including any harm or damage caused by chemicals; to restore the

1 environment to its previous condition prior to any harm or damage; and to properly
2 dispose of chemicals and other materials, including those used in the manufacture of
3 scheduled drugs in violation of chapter 45.

4 F. "Expense of an emergency response" means reasonable costs incurred by a public
5 agency in reasonably making an appropriate emergency response to the incident,
6 including a response to a suspected unlawful methamphetamine laboratory under
7 section 1124, but only includes those costs directly arising because of the response to
8 the particular incident. Reasonable costs include the costs of providing police,
9 firefighting, rescue and emergency medical services at the scene of the incident, as
10 well as the compensation for the personnel, including trained laboratory personnel,
11 responding to the incident. "Public agency" means the State or any county,
12 municipality, district or public authority located, in whole or in part, within this State
13 that provides or may provide laboratory services or police, firefighting, ambulance or
14 other emergency services.

15 G. "Property loss" means the value of property taken from the victim, or of property
16 destroyed or otherwise broken or harmed. A property loss includes the value of taxes
17 or other obligations due to the government that have not been paid. "Property loss"
18 also includes, in cases involving a violation of chapter 45, the value of money or
19 other consideration given or offered in exchange for scheduled drugs by a law
20 enforcement officer or another at the direction of a law enforcement officer that are
21 not, in fact, recovered by the State at the time of sentencing, regardless of whether
22 other money or items of value are sought, acquired or forfeited pursuant to Title 15,
23 chapter 517. In cases involving a violation of chapter 45, the court must make a
24 finding that the property loss is specifically related to that case.

25 H. "Replacement services loss" means expenses reasonably incurred in obtaining
26 ordinary and necessary services in lieu of those the injured person would have
27 performed, not for income but for the benefit of the injured person or the injured
28 person's family, if the injured person had not been injured.

29 I. "Work loss" means loss of income from work the injured person would have
30 performed if the injured person had not been injured and expenses reasonably
31 incurred by the injured person in obtaining services in lieu of those the injured person
32 would have performed for income, reduced by any income for substitute work
33 actually performed by the injured person or by income the injured person would have
34 earned in available appropriate substitute work the injured person was capable of
35 performing but unreasonably failed to undertake. For a victim of a human trafficking
36 offense as defined in Title 5, section 4701, subsection 1, paragraph C, "work loss"
37 includes pay or benefits unfairly or illegally withheld from the victim by the offender
38 or any unfair labor agreement under Title 26, section 629, as defined by rules adopted
39 by the Department of Labor.

40 **4. Noneconomic detriment.** "Noneconomic detriment" means pain, suffering,
41 inconvenience, physical impairment and other nonpecuniary damage.

42 **5. Offender.** "Offender" means an individual or an organization convicted of a
43 crime.

- 1 **6. Restitution.** "Restitution" means:
- 2 A. Monetary reimbursement, in whole or in part, for economic loss;
- 3 B. Work or service provided to a victim for economic loss; or
- 4 C. Any combination of service or monetary reimbursement by an offender to the
5 victim of the offender's crime or to other authorized claimants, either directly or
6 indirectly.
- 7 **7. Victim.** "Victim" means a government that suffers economic loss or a person who
8 suffers personal injury, death or economic loss as a result of a crime or the good faith
9 effort of any person to prevent a crime.

10 **§2003. Mandatory consideration of restitution**

11 **1. Inquiry as to victim's financial loss.** The court shall, whenever practicable,
12 inquire of a prosecutor, law enforcement officer or victim with respect to the extent of the
13 victim's financial loss and shall order restitution when appropriate. The order for
14 restitution must designate the amount of restitution to be paid and the person or persons
15 to whom the restitution must be paid.

16 **2. Reasons for not imposing restitution.** In any case where the court determines
17 that restitution should not be imposed in accordance with the criteria set forth in section
18 2005, the court shall state in open court or in writing the reasons for not imposing
19 restitution.

20 **3. Restitution required.** In any prosecution for a crime committed prior to the
21 effective date of this chapter, or any amendment to this chapter, the court may, with the
22 consent of the defendant, require the defendant to make restitution in accordance with this
23 chapter as amended.

24 **§2004. Authorized claimants**

25 Restitution may be authorized for:

26 **1. Victim.** The victim or a dependent of a deceased victim;

27 **2. County.** The county where the offense was prosecuted if the victim voluntarily
28 refuses restitution or if the identity of the victim cannot be ascertained;

29 **3. Person providing recovery.** Any person, firm, organization, corporation or
30 government entity that has provided recovery to the victim as a collateral source, but only
31 to the extent that such recovery was actually made; and

32 **4. Person acting on behalf of victim.** Any person legally authorized to act on
33 behalf of the victim.

1 **§2005. Criteria for restitution**

2 **1. Restitution authorized.** Restitution may be authorized, in whole or in part, as
3 compensation for economic loss. In determining the amount of restitution authorized, the
4 following must be considered:

5 A. The contributory misconduct of the victim;

6 B. Failure to report the crime to a law enforcement officer within 72 hours after its
7 occurrence, without good cause for failure to report within that time; and

8 C. The present and future financial capacity of the offender to pay restitution.

9 **2. Restitution not authorized.** Restitution is not authorized:

10 A. To a victim without that victim's consent;

11 B. To a victim who is an accomplice of the offender;

12 C. To a victim who has otherwise been compensated from a collateral source, but
13 economic loss in excess of the collateral compensation may be authorized; and

14 D. When the amount and method of payment of monetary restitution or the
15 performance of service restitution creates an excessive financial hardship on the
16 offender or dependent of the offender. In making this determination, all relevant
17 factors must be considered, including, but not limited to, the following:

18 (1) The number of the offender's dependents;

19 (2) The minimum living expenses of the offender and the offender's dependents;

20 (3) The special needs of the offender and the offender's dependents, including
21 necessary travel expense to and from work;

22 (4) The offender's present income and potential future earning capacity; and

23 (5) The offender's resources, from whatever source.

24 **3. Exception.** The provisions of subsection 2, paragraph D do not apply to an
25 offender that is an organization.

26 **4. Burdens of proof.** An offender who asserts a present or future incapacity to pay
27 restitution has the burden of proving the incapacity by a preponderance of the evidence.
28 On appeal of a restitution order, the offender has the burden of demonstrating that the
29 incapacity was proven as a matter of law.

30 **§2006. Time and method of restitution**

31 When restitution is authorized, and the offender is not committed to the Department
32 of Corrections and does not receive a sentence that includes a period of probation, the
33 time and method of payment or of the performance of the services must be specified by
34 the court and monetary compensation may be ordered paid to the office of the prosecuting
35 attorney who is prosecuting the case or to the clerk of the court. If the offender is
36 committed to the Department of Corrections or receives a sentence that includes a period
37 of probation, monetary compensation must be paid to the Department of Corrections and

1 the time and method of payment must be determined by the Department of Corrections
2 during the term of commitment or the period of probation unless at the time of sentencing
3 the court has specified the time and method of payment. Once any term of commitment
4 to the Department of Corrections or period of probation is completed and if the restitution
5 ordered has not been paid in full, the offender is subject to the provisions of section 2011
6 and, in the event of a default, the provisions of section 2015. The state agency receiving
7 the restitution shall deposit any money received in the account maintained by the
8 Treasurer of State for deposit of state agency funds, from which funds are daily
9 transferred to an investment account and invested. Interest accrued on that money is the
10 property of and accrues to the State for deposit in the General Fund. The agency
11 receiving the restitution shall make the disbursement to the victim or other authorized
12 claimant as soon as possible after the agency receives the money.

13 **§2007. Income withholding order**

14 **1. Instructions for employer.** When restitution is required of an offender who will
15 not be commencing service of a period of institutional confinement, who does not receive
16 a sentence that includes a period of probation and who is employed, the court shall, at the
17 time of ordering restitution, enter a separate order for income withholding. When
18 restitution is required of an offender who receives a sentence that includes a period of
19 probation and who is employed, upon application of the offender's probation officer, the
20 court shall enter a separate order for income withholding. The withholding order must
21 direct the employer to deduct from all income due and payable to the offender an amount
22 determined pursuant to section 2006 to meet the offender's restitution obligation. The
23 withholding order must include an instruction to the employer that upon receipt of a copy
24 of the withholding order the employer shall:

25 A. Immediately begin to withhold the offender's income when the offender is usually
26 paid;

27 B. Send each amount withheld to the agency to which restitution has been ordered to
28 be paid at the address set forth in the order within 7 business days of the withholding;
29 and

30 C. Identify each amount sent to the agency by indicating the court's docket number.

31 **2. Term of order.** The income withholding order is effective as long as the order for
32 restitution upon which it is based is effective, including after a defendant is no longer in
33 the custody or under the supervision of the Department of Corrections and has not paid
34 the restitution in full as described in section 2011, or until further order of the court.

35 **§2008. Deceased victims**

36 An offender's obligation to pay restitution is not affected by the death of the victim to
37 whom the restitution is due. The money collected as restitution must be forwarded to the
38 estate of the victim.

1 **§2009. Victim unable to be located**

2 If the location of a victim cannot, with due diligence, be ascertained, the money
3 collected as restitution must be forwarded to the Treasurer of State to be handled as
4 unclaimed property.

5 **§2010. Joint and several order**

6 If the victim's financial loss has been caused by more than one offender, the order
7 must designate that the restitution is to be paid on a joint and several basis, unless the
8 court specifically determines that one defendant should not equally share the burden. The
9 agency collecting restitution pursuant to a joint and several order may, after the full
10 amount of restitution has been collected and disbursed to the victim, continue to collect
11 payments from an offender who has not paid an equal share of the restitution and may
12 disburse the money collected to any other offender who has paid more than an equal
13 share of the restitution.

14 **§2011. Former Department of Corrections' clients owing restitution**

15 An offender is responsible for paying any restitution outstanding at the time the term
16 of commitment to the Department of Corrections or period of probation is completed. An
17 offender who has complied with the time and method of payment of monetary
18 compensation determined by the Department of Corrections during the period of
19 probation shall continue to make payments to the Department of Corrections in
20 accordance with that payment schedule unless modified by the court pursuant to section
21 2014 or 2015. An offender who has not complied with the time and method of payment
22 of monetary compensation determined by the Department of Corrections during the
23 period of probation must be returned to the court for further disposition pursuant to
24 section 2015. An offender who is unconditionally released and discharged from
25 institutional confinement with the Department of Corrections upon the expiration of the
26 sentence must, upon application of the office of the attorney for the State, be returned to
27 the court for specification by the court of the time and method of payment of monetary
28 compensation, which may be ordered paid to the office of the attorney for the State who
29 prosecuted the case or to the clerk of the court. Prior to the offender's release and
30 discharge, the Department of Corrections shall provide the office of the attorney for the
31 State who prosecuted the case written notice as to the amount of restitution outstanding.
32 An income withholding order issued pursuant to section 2007 remains effective and
33 enforceable until the restitution is paid in full, even after an offender is no longer in the
34 custody or under the supervision of the Department of Corrections.

35 **§2012. Restitution deducted from judgment in civil action**

36 Any restitution ordered and paid must be deducted from the amount of any judgment
37 awarded in a civil action brought by the victim against the offender based on the same
38 facts. If the restitution ordered and made was work restitution, the reasonable value of the
39 services may be deducted from any such judgment.

1 **§2013. Post-conviction relief**

2 If, in any judicial proceeding following conviction, a court issues a final judgment
3 invalidating the conviction, the judgment may include an order that any or all of a
4 restitution payment that the convicted person paid pursuant to the sentence for that
5 conviction be returned to the convicted person.

6 **§2014. Modification of restitution**

7 A convicted person who cannot make restitution payments in the manner ordered by
8 the court or determined by the Department of Corrections pursuant to section 2006 shall
9 move the court for a modification of the time or method of payment or service to avoid a
10 default. The court may modify its prior order or the determination of the Department of
11 Corrections to reduce the amount of each installment or to allow additional time for
12 payment or service.

13 **§2015. Default**

14 **1. Return to court.** An offender who has been sentenced to make restitution and has
15 defaulted in payment or service thereof must be returned to court to explain the failure to
16 pay or perform the service.

17 **2. Reports.** A probation officer having knowledge of a default in restitution by an
18 offender shall report the default to the office of the attorney for the State. An attorney for
19 the State having knowledge of a default in restitution by an offender shall report the
20 default to the court. If the restitution was a condition of probation, the attorney for the
21 State may file a motion to enforce payment of restitution or, with the written consent of
22 the probation officer, a motion to revoke probation under section 1811. If the restitution
23 was not a condition of probation, the attorney for the State may file a motion to enforce
24 payment of restitution.

25 **3. Motion to enforce payment of restitution.** Either the attorney for the State or
26 the court may initiate a motion to enforce payment of restitution. Notification for the
27 hearing on the motion must be sent by regular mail to the offender's last known address.
28 If the offender does not appear for the hearing after proper notification has been sent, the
29 court may issue a bench warrant.

30 A. Unless the offender shows by a preponderance of the evidence that the default
31 was not attributable to an intentional or knowing refusal to obey the court's order or
32 to a failure on the offender's part to make a good-faith effort to obtain the funds
33 required to make payment, the court shall find that the default was unexcused and
34 may commit the offender to the custody of the sheriff until all or a specified part of
35 the restitution is paid. The length of confinement in a county jail for unexcused
36 default must be specified in the court's order and may not exceed one day for every
37 \$5 of unpaid restitution or 6 months, whichever is shorter. An offender committed for
38 nonpayment of restitution is given credit toward the payment of restitution for each
39 day of confinement that the offender is in custody, at the rate specified in the court's
40 order. The offender is also given credit for each day that the offender has been
41 detained as the result of an arrest warrant issued pursuant to this section. An offender

1 is responsible for paying any restitution remaining after receiving credit for
2 confinement and detention. A default on the remaining restitution is also governed
3 by this section.

4 B. If it appears that the default is excusable, the court may give the offender
5 additional time for payment or may reduce the amount of each installment.

6 C. The confinement ordered under this subsection must be nonconcurrent with any
7 judgment of conviction involving a term of imprisonment.

8 **4. Forfeiture of bail.** When an offender who has been sentenced to make restitution
9 and has defaulted in payment or service of the restitution is declared in forfeiture of bail
10 in the proceeding brought under this section pursuant to Title 15, section 1094, the
11 obligation and sureties of the defendant must be enforced pursuant to Title 15, section
12 1094 and the district attorney shall use the proceeds to satisfy the offender's restitution
13 obligation. Any proceeds from the forfeited bail remaining after the offender's restitution
14 obligation has been satisfied must be used in accordance with Title 15, section 224-A,
15 subsection 2.

16 **5. Collection.** Upon any default, execution may be levied and other measures
17 authorized for the collection of unpaid civil judgments may be taken to collect the unpaid
18 restitution. A levy of execution does not discharge an offender confined to a county jail
19 under subsection 3 for unexcused default until the full amount of the restitution has been
20 collected.

21 **6. Organizations.** When restitution is imposed on an organization, the person or
22 persons authorized to make disbursements from the assets of the organization shall pay
23 the restitution from the organization's assets. Failure to do so may subject the person or
24 persons to court action pursuant to this section.

25 **7. Payments.** Payments made pursuant to this section must be made to the same
26 agency to which the restitution was required to be paid under section 2006 or section
27 2011, except that if the offender is no longer in the custody or under the supervision of
28 the Department of Corrections the payments must be made to the office of the attorney
29 for the State who prosecuted the case or the clerk of the court, as ordered by the court.

30 **§2016. Work program release; restitution**

31 **1. Work program; payment of restitution and fines.** A prisoner who has been
32 ordered to pay restitution or fines may not be released pursuant to a work program
33 administered by the Department of Corrections under Title 34-A, section 3035, or a
34 sheriff under Title 30-A, section 1605, or participate in an industry program under Title
35 34-A, section 1403, subsection 9 or any other program administered by the Department of
36 Corrections or a sheriff by which a prisoner is able to generate money, unless the prisoner
37 consents to pay at least 25% of the prisoner's gross weekly wages or other money
38 generated to the victim or the court until such time as full restitution has been made or the
39 fine is paid in full. The chief administrative officer of the correctional facility where the
40 prisoner is incarcerated shall collect and disburse to the victim or victims that portion of
41 the prisoner's wages or other money generated agreed to as payment of restitution. The
42 chief administrative officer of the correctional facility where the prisoner is incarcerated

1 shall also collect and disburse to the court that portion of the prisoner's wages or other
2 money generated agreed to as payment of fines after the restitution is paid in full. If the
3 victim or victims ordered by the court to receive restitution cannot be located, the
4 correctional facility shall inform the court that ordered restitution. The court shall
5 determine the distribution of these funds.

6 **2. Payment of restitution or fines from other sources.** A prisoner, other than one
7 addressed by subsection 1, who receives money, from any source, shall pay 25% of that
8 money to any victim or the court if the court has ordered that restitution or a fine be paid.
9 The chief administrative officer of the correctional facility in which the prisoner is
10 incarcerated shall collect and disburse to the victim or victims that portion of the
11 prisoner's money ordered as restitution. The chief administrative officer of the
12 correctional facility where the prisoner is incarcerated shall also collect and disburse to
13 the court that portion of the prisoner's money ordered as fines after the restitution is paid
14 in full. If the victim or victims ordered by the court to receive restitution cannot be
15 located, the correctional facility shall inform the court that ordered restitution. The court
16 shall determine the distribution of these funds. Money received by the prisoner and
17 directly deposited into a telephone call account established by the Department of
18 Corrections for the sole purpose of paying for use of the department's client telephone
19 system is not subject to this subsection, except that 25% of any money received by the
20 prisoner and transferred from the telephone call account to the department's general client
21 account at the time of the prisoner's discharge or transfer to supervised community
22 confinement must be collected and disbursed as provided in this subsection.

23 **3. Restitution; absolute.** The requirements imposed on a prisoner by this section to
24 pay restitution and fines during incarceration apply regardless of whether:

25 A. The court order to pay restitution or fines constitutes a sentence or is imposed as a
26 condition of probation;

27 B. Payment has been stayed in the court order;

28 C. The court has specified a time and method of payment pursuant to section 1708,
29 subsection 1 or section 2006; or

30 D. The person's incarceration resulted from a revocation of probation.

31 **§2017. Waiver of issue of excessiveness**

32 If a defendant at the time of sentencing has consented to the imposition by the
33 sentencing court of a specific amount of restitution, the defendant is thereafter precluded
34 from seeking to attack the legality or propriety of the amount of restitution ordered if that
35 amount does not exceed the specific amount consented to by the defendant.

36 **§2018. Restitution for benefit of victim**

37 When compensation is awarded from the Victims' Compensation Fund pursuant to
38 Title 5, chapter 316-A, the amount of any restitution ordered to be paid to or for the
39 benefit of the victim and collected as part of a sentence imposed must be paid by the
40 agency collecting the restitution in an amount not to exceed the amount of the payments

1 from the fund, directly to the fund if, when added to the payments from the fund, the
2 restitution exceeds the victim's actual loss.

3 **§2019. Civil remedy upon default**

4 Upon the request of the attorney for the State or a person entitled to restitution under
5 an order of restitution, the clerk shall enter the order of restitution in the same manner as
6 a judgment in a civil action. When entered under this section, the order of restitution is
7 deemed to be a money judgment. Upon default, the order to make restitution is
8 enforceable in accordance with Title 14, chapter 502 by any person entitled to restitution
9 under the order.

10 **CHAPTER 71**

11 **COMMUNITY SERVICE WORK**

12 **§2031. Sentencing alternative of community service work; authorization**

13 The court may sentence an individual convicted of a Class D or Class E crime to
14 perform a specified number of hours of community service work for the benefit of the
15 State, a county, a municipality, a school administrative unit or other public entity, a
16 charitable institution or another entity approved by the court.

17 **§2032. Modification of community service work**

18 An individual who has been sentenced to perform a specified number of hours of
19 community service work pursuant to section 2031 and who is in danger of default for
20 failing to complete the work in the manner ordered by the court shall move the court for a
21 modification to avoid the default. The court may modify its prior order as to the time for
22 completion, the nature of the work to be performed or the entity for which the work is to
23 be performed.

24 **§2033. Default**

25 **1. Return to court.** An individual who has been sentenced to perform community
26 service work pursuant to section 2031 and fails to complete the specified number of hours
27 of work in the manner ordered by the court must be returned to the court to explain the
28 failure.

29 **2. Report of failure.** If the entity for which the court orders an individual to
30 perform community service work pursuant to section 2031 knows that the individual has
31 failed to meet the requirements of the order, the entity may report the failure to the
32 attorney for the State or to the court. If the attorney for the State knows of the default, the
33 attorney for the State shall report the default to the court.

34 **3. Motion to enforce sentence or motion to seek coercive or punitive sanction.**
35 Either the attorney for the State or the court may initiate a motion to enforce completion
36 of community service work ordered by the court pursuant to section 2031 or may initiate
37 a motion seeking a coercive or punitive sanction for the default as specified in subsection
38 4, paragraphs C and D. The court shall send notification of the hearing on the motion by

1 regular mail to the individual's last known address. If the individual does not appear for
2 the hearing after proper notification has been sent, the court may issue a bench warrant.

3 **4. Hearing on motion.** At a hearing under subsection 3, unless the individual who
4 has been sentenced to perform community service work shows by a preponderance of the
5 evidence that the default was not attributable to an intentional or knowing refusal to obey
6 the court's order or to a failure on the individual's part to make a good faith effort to
7 comply with the order, the court shall find that the default was unexcused and may:

8 A. Reaffirm the requirement that the individual complete the community service
9 work as previously ordered;

10 B. Modify the original order as to:

11 (1) When the community service work is to be performed;

12 (2) The entity for whom the work is to be performed; or

13 (3) The nature of the work to be performed;

14 C. Impose a coercive sanction by committing the individual to the custody of a
15 sheriff until such time as the individual demonstrates to the court a willingness to
16 comply with the order. The commitment imposed pursuant to this paragraph may not
17 exceed 6 months; or

18 D. Impose a punitive sanction by committing the individual to the custody of a
19 sheriff. The commitment imposed pursuant to this paragraph may not exceed 6
20 months.

21 The provisions of Rule 66 of the Maine Rules of Civil Procedure do not apply to a
22 hearing on a motion seeking a coercive or punitive sanction imposed pursuant to
23 paragraph C or D.

24 **5. Commitment order; tolling of undischarged term; no deductions.** If the court
25 orders an individual committed as a coercive sanction pursuant to subsection 4, paragraph
26 C:

27 A. The court may order that an undischarged term of imprisonment be tolled for the
28 duration of the coercive commitment if the individual is in execution of the
29 undischarged term of imprisonment on a sentence in this State; and

30 B. The individual may not receive a deduction for time detained as a result of an
31 arrest made under subsection 3 or a deduction based on conduct or participation in
32 programs established or approved by the administrator of the jail to which the
33 individual is committed during the coercive commitment.

34 **6. Commitment order; nonconcurrent with any term of imprisonment;**
35 **deduction only for time detained.** If the court orders an individual committed as a
36 punitive sanction pursuant to subsection 4, paragraph D:

37 A. The committal must not be concurrent with another term of imprisonment in this
38 State imposed pursuant to a judgment of conviction;

1 B. The individual must receive a day-for-day deduction for time detained as a result
2 of an arrest made under subsection 3; and

3 C. The individual may not receive a deduction based on conduct or participation in
4 programs established or approved by the administrator of the jail to which the
5 individual is committed during the commitment imposed as a punitive sanction.

6 **7. Right to counsel.** At a hearing under subsection 3 in which the State seeks a
7 coercive or punitive sanction for a default, the individual has the right to be represented
8 by counsel. If the individual cannot afford counsel, the court shall assign counsel for the
9 individual unless the court concludes that in the event of a finding of an unexcused
10 default the options in subsection 4, paragraphs C and D will not be employed by the
11 court.

12 **8. Excused default.** If at a hearing under subsection 3 the court finds the default to
13 be excused, the court may leave its prior order in place or modify the order as to the time
14 for completion, the nature of the work to be performed or the entity for which the work is
15 to be performed.

16 **9. Supervision of work.** The Department of Corrections is not responsible for
17 supervision of community service work imposed pursuant to section 2031.

18 **CHAPTER 73**

19 **UNCONDITIONAL DISCHARGE**

20 **§2051. Sentencing alternative of unconditional discharge**

21 The court shall sentence a convicted person to an unconditional discharge if the court
22 determines that no other authorized sentencing alternative is appropriate punishment and
23 the convicted person is:

24 **1. Eligible for probation.** Eligible for the imposition of a sentencing alternative that
25 includes a period of probation under section 1802, subsection 1; or

26 **2. Ineligible for probation due to excluded Class D or Class E crime.** Ineligible
27 for the imposition of a sentencing alternative that includes a period of probation under
28 section 1802, subsection 1 solely by operation of section 1802, subsection 1, paragraph B.

29 A sentence of unconditional discharge is for all purposes a final judgment of
30 conviction.

31 **CHAPTER 75**

32 **VICTIMS' RIGHTS**

33 **§2101. Definitions**

34 As used in this chapter, unless the context otherwise indicates, the following terms
35 have the following meanings.

1 1. Crime. "Crime" means a criminal offense in which, as defined, there is a victim.

2 2. Victim. "Victim" means:

3 A. A person who is the victim of a crime; and

4 B. The immediate family of a victim of a crime if:

5 (1) The underlying crime is one of domestic violence or sexual assault or one in
6 which the family suffered serious physical trauma or serious financial loss; or

7 (2) Due to death, age, physical or mental disease, disorder or defect, the victim is
8 unable to participate as allowed under this chapter.

9 As used in this paragraph, "immediate family" means the spouse, domestic partner,
10 parent, child, sibling, stepchild or stepparent of the victim.

11 **§2102. Victims to be notified**

12 1. Information provided to victim. When practicable, the attorney for the State
13 shall make a good faith effort to inform each victim of the following:

14 A. The details of a plea agreement, including a deferred disposition, before it is
15 submitted to the court;

16 B. The right to comment on a plea agreement, including a deferred disposition,
17 pursuant to section 2103;

18 C. The proposed dismissal or filing of an indictment, information or complaint
19 pursuant to the Maine Rules of Unified Criminal Procedure, Rule 48, before that
20 action is taken;

21 D. The time and place of the trial;

22 E. The time and place of sentencing;

23 F. The right to participate at sentencing pursuant to section 2104; and

24 G. The right to comment on the proposed early termination of probation, early
25 termination of administrative release or conversion of probation to administrative
26 release, pursuant to section 2105.

27 2. Pamphlets. When providing notice under subsection 1, the attorney for the State
28 shall offer to provide the victim with a pamphlet containing this chapter, Title 5, chapter
29 316-A and Title 15, sections 812 and 6101. In addition, the attorney for the State, as part
30 of any victim and witness support program that attorney administers under Title 30-A,
31 section 460, shall provide the victim with a pamphlet outlining in everyday language the
32 provisions set out in this chapter, Title 5, chapter 316-A and Title 15, sections 812 and
33 6101. The attorney for the State may use the pamphlet printed and distributed by the
34 Department of Corrections or another pamphlet that meets the criteria in this section.

35 **§2103. Plea agreement procedure**

36 When a plea agreement is submitted to the court pursuant to the Maine Rules of
37 Unified Criminal Procedure, Rule 11A(b), the attorney for the State shall disclose to the

1 court any and all attempts made to notify each victim of the plea agreement and any
2 objection to the plea agreement by a victim. A victim who is present in court at the
3 submission of the plea may address the court at that time.

4 **§2104. Sentencing procedure**

5 **1. Participation by victim.** The victim must be provided the opportunity to
6 participate at sentencing by:

7 A. Making an oral statement in open court; or

8 B. Submitting a written statement to the court either directly or through the attorney
9 for the State. A written statement must be made part of the record.

10 An attorney for the victim may submit a written statement or make an oral statement on
11 the victim's behalf.

12 **2. Consideration of victim's statements.** The court shall consider any statement
13 made under subsection 1, along with all other appropriate factors, in determining the
14 sentence.

15 **3. Participation by interested person.** An interested person, including, but not
16 limited to, a member of the victim's family who is not immediate family of the victim, a
17 close friend of the victim, a community member and other interested person, does not
18 have a right to participate at sentencing. Participation by such interested persons is a
19 matter for the court's discretion in determining what information to consider when
20 sentencing.

21 **§2105. Termination or conversion procedure**

22 When the attorney for the State receives notice of a motion seeking early termination
23 of probation or early termination of administrative release or seeking to convert probation
24 to administrative release, the attorney for the State shall disclose to the court any attempts
25 made to notify each victim of the motion to terminate or convert and any objection to the
26 motion by a victim. If a hearing is held on the motion by the court and the victim is
27 present in court, the victim may address the court at that time.

28 **§2106. Notification of defendant's release or escape**

29 Upon complying with subsection 1, a victim of a crime of murder or of a Class A,
30 Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the
31 defendant is committed to the Department of Corrections or to a county jail or is
32 committed to the custody of the Commissioner of Health and Human Services either
33 under Title 15, section 103 after having been found not criminally responsible by reason
34 of insanity or under Title 15, section 101-D after having been found incompetent to stand
35 trial must receive notification of the defendant's unconditional release and discharge from
36 institutional confinement upon the expiration of the sentence or upon release from
37 commitment under Title 15, section 101-D or upon discharge under Title 15, section
38 104-A; must receive notification of any conditional release of the defendant from
39 institutional confinement, including probation, supervised release for sex offenders,
40 parole, furlough, work release, funeral or deathbed visit, supervised community

1 confinement, home release monitoring or similar program, administrative release or
2 release under Title 15, section 104-A; and must receive notification of the defendant's
3 escape from the Department of Corrections, the custody of the Commissioner of Health
4 and Human Services or the county jail to which the defendant is committed. For
5 purposes of this section, "victim" also includes a person who has obtained under Title
6 19-A, section 4007 an active protection order or approved consent agreement against the
7 defendant.

8 **1. Request for notification.** A victim who wishes to receive notification must file a
9 written request for that notification of the defendant's release or escape under this section
10 with the office of the attorney for the State. The attorney for the State shall forward this
11 request form to the Department of Corrections or to the state mental health institute or to
12 the county jail to which that defendant is committed. Notwithstanding this subsection, a
13 victim who wishes to receive notification regarding a defendant who is committed to the
14 Department of Corrections may file a request for notification of the defendant's release
15 directly with the Department of Corrections.

16 **2. Notification of victim.** The Department of Corrections or the state mental health
17 institute or the county jail to which the defendant is committed shall keep the victim's
18 written request for a notification under subsection 1 in the file of the defendant and shall
19 notify the victim by mail of any impending release as soon as the release date is set or, if
20 the defendant has escaped, by the quickest means reasonably practicable. This
21 notification must be mailed to the address provided in the request or any subsequent
22 address provided by the victim.

23 **3. Contents of notification upon release.** If the defendant is being released, the
24 notification required by this section must contain:

25 A. The name of the defendant;

26 B. The nature of the release authorized, whether it is a conditional release, including
27 probation, supervised release for sex offenders, parole, furlough, work release,
28 funeral or deathbed visit, supervised community confinement, home release
29 monitoring or a similar program, administrative release or release under Title 15,
30 section 104-A, or an unconditional release and discharge upon release from
31 commitment under Title 15, section 101-D or upon the expiration of a sentence or
32 upon discharge under Title 15, section 104-A;

33 C. The anticipated date of the defendant's release from institutional confinement and
34 any date on which the defendant must return to institutional confinement, if
35 applicable;

36 D. The geographic area to which the defendant's release is limited, if any;

37 E. The address at which the defendant will reside; and

38 F. The address at which the defendant will work, if applicable.

39 **4. Contents of notification upon escape.** If the defendant has escaped, the notice
40 required by this section must contain the name of the defendant, the manner of escape,
41 the place from which the defendant escaped and the date of the escape.

1 **5. Termination of notification requirement.** The notification requirement under
2 this section ends when:

3 A. Notification has been provided of an unconditional release or discharge upon the
4 expiration of the sentence or upon release under Title 15, section 101-D or upon
5 discharge under Title 15, section 104-A; or

6 B. The victim has filed a written request for a notification under subsection 1 with
7 the Department of Corrections or the state mental health institute or the county jail to
8 which the defendant is committed asking that no further notification be given.

9 **6. Liability.** Neither the failure to perform the requirements of this chapter nor
10 compliance with this chapter subjects the attorney for the State, the Commissioner of
11 Corrections, the Department of Corrections, the Commissioner of Health and Human
12 Services, the institution for the care and treatment for persons with mental illness to
13 which the defendant is committed by the Commissioner of Health and Human Services or
14 the residential program that provides care and treatment for persons who have intellectual
15 disabilities or autism to which the defendant is committed by the Commissioner of Health
16 and Human Services or the county jail or the employees or officers of the attorney for the
17 State, the Commissioner of Corrections, the Department of Corrections, the
18 Commissioner of Health and Human Services, the state mental health institution for the
19 care and treatment for persons with mental illness to which the defendant is committed by
20 the Commissioner of Health and Human Services or the residential program that provides
21 care and treatment for persons who have intellectual disabilities or autism to which the
22 defendant is committed by the Commissioner of Health and Human Services or the
23 county jail to liability in a civil action.

24 **§2107. Notification of defendant's release on preconviction bail**

25 **1. Contact information for victim of certain crimes.** In the case of an alleged
26 crime involving domestic violence, sexual assault under chapter 11 or stalking, the
27 arresting law enforcement officer shall obtain the victim's contact information and
28 provide that information to the jail to which the defendant is delivered.

29 **2. Notification of victim of certain crimes by jail or law enforcement agency.** In
30 a case of an alleged crime involving domestic violence, sexual assault under chapter 11 or
31 stalking, the jail to which the defendant is delivered shall notify the victim of the
32 defendant's release on preconviction bail under Title 15, chapter 105-A as soon as
33 possible but no later than one hour after the defendant's release. If the defendant is
34 released on preconviction bail before being delivered to a jail, the arresting law
35 enforcement agency shall notify the victim as provided in this section.

36 **3. Method of notification.** Notification under subsection 2 must be made by a
37 telephone call either directly to the victim or as provided in subsection 5. In the event
38 that the jail has not succeeded in contacting the victim after the jail has exercised due
39 diligence in attempting to contact the victim, notification of the defendant's release must
40 be made to the law enforcement agency that investigated the report of domestic violence,
41 sexual assault under chapter 11 or stalking. That law enforcement agency shall make a
42 reasonable attempt to notify the victim of the defendant's release on preconviction bail.

1 **4. Request by victim to not be notified.** Notwithstanding subsection 2, a victim of
2 an alleged crime described in subsection 1 may request in writing that the jail or arresting
3 law enforcement agency not notify the victim of the defendant's release on preconviction
4 bail.

5 **5. Notification based on age of victim.** Notification under this section to an adult
6 victim must be made to the victim. Notification to a minor victim must be made to an
7 adult who is the victim's parent or legal guardian or, if a parent or legal guardian is not
8 available, to another immediate family member of the victim unless the jail or arresting
9 law enforcement agency reasonably believes that it is in the best interest of the minor
10 victim to be notified directly.

11 **6. Liability.** Neither the failure to perform the requirements of this section nor
12 compliance with this section subjects the State, the arresting law enforcement agency, the
13 jail to which the defendant was delivered, the Department of Corrections or officers or
14 employees of the law enforcement agency, jail or Department of Corrections to liability
15 in a civil action.

16 For purposes of this section, "crime involving domestic violence" has the same
17 meaning as in Title 15, section 1003, subsection 3-A and includes those crimes under
18 section 152, subsection 1, paragraph A, section 208 and section 208-B when the victim is
19 a family or household member as defined in Title 19-A, section 4002, subsection 4.

20 **§2108. Confidentiality of victim records**

21 **1. General rule of confidentiality.** Records that pertain to a victim's current address
22 or location or that contain information from which a victim's current address or location
23 could be determined must be kept confidential, subject to disclosure only as authorized in
24 this section.

25 **2. Disclosure to law enforcement or victims' service agency.** Records that pertain
26 to a victim's current address or location or that contain information from which a victim's
27 current address or location could be determined may be disclosed only to:

28 A. A state agency if necessary to carry out the statutory duties of that agency;

29 B. A criminal justice agency if necessary to carry out the administration of criminal
30 justice or the administration of juvenile justice;

31 C. A victims' service agency with a written agreement with a criminal justice agency
32 to provide services as a victim advocate; or

33 D. A person or agency upon request of the victim.

34 **3. Limited disclosure as part of bail condition or court order.** A bail
35 commissioner, judge, justice, court clerk, law enforcement officer or attorney for the
36 State may disclose a victim's current address or location to the defendant or accused
37 person, or the attorney or authorized agent of the defendant or accused person, as part of a
38 bail condition or court order restricting contact with the victim only when it is clear that
39 the defendant already knows the victim's current address or location or when the victim

1 requests that such bail condition or court order be issued and the victim requests that the
2 current address or location be specified.

3 **4. Limited disclosure pursuant to discovery.** An attorney for the State may
4 withhold the current address or location of a victim from the defendant, or the attorney or
5 authorized agent of the defendant, if the attorney for the State has a good faith belief that
6 such disclosure may compromise the safety of the victim.

7 **5. Disclosure of victim's request for notice prohibited.** In no case may a victim's
8 request for notification of the defendant's release under section 2106 be disclosed except
9 to those employees of the agency to which the defendant is committed and the office of
10 the attorney for the State with which the request was filed in order for those persons to
11 perform their official duties under this chapter.

12 **§2109. Certain communications by victims confidential**

13 The following communications are privileged from disclosure.

14 **1. To sexual assault counselor.** Communications by a victim, as described in Title
15 16, section 53-A, subsection 2, to a sexual assault counselor, as defined in Title 16,
16 section 53-A, subsection 1, paragraph B, are privileged from disclosure as provided in
17 Title 16, section 53-A, subsection 2.

18 **2. To advocate.** Communications by a victim, as defined in Title 16, section 53-B,
19 subsection 1, paragraph B, to an advocate, as defined in Title 16, section 53-B, subsection
20 1, paragraph A, are privileged from disclosure as provided in Title 16, section 53-B,
21 subsection 2, subject to exceptions in Title 16, section 53-B, subsection 3.

22 **3. To victim witness advocate or victim witness coordinator.** Communications by
23 a victim, as defined in Title 16, section 53-C, subsection 1, paragraph B, to a victim
24 witness advocate or a victim witness coordinator, as defined in Title 16, section 53-C,
25 subsection 1, paragraph C, are privileged from disclosure as provided in Title 16, section
26 53-C, subsection 2, subject to exceptions in Title 16, section 53-C, subsection 3.

27 **PART 7**

28 **ADMINISTRATION OF IMPOSED SENTENCES OF IMPRISONMENT**

29 **CHAPTER 81**

30 **ADMINISTRATION OF IMPOSED SENTENCES OF IMPRISONMENT**

31 **§2301. Definitions**

32 As used in this chapter, unless the context otherwise indicates, the following terms
33 have the following meanings.

34 **1. Family or household member.** "Family or household member" has the same
35 meaning as in Title 19-A, section 4002, subsection 4.

36 **2. Jail.** "Jail" means a county or regional jail.

- 1 **3. Sentence of imprisonment.** "Sentence of imprisonment" means:
- 2 A. A term of imprisonment, none of which is suspended;
- 3 B. An unsuspended portion of a split sentence of imprisonment either before or after
- 4 revocation of probation or administrative release;
- 5 C. An unsuspended portion of a wholly suspended term of imprisonment with
- 6 probation or with administrative release after revocation of that probation or
- 7 administrative release; or
- 8 D. Any court-ordered time in the custody of the Department of Corrections after
- 9 revocation of a period of supervised release.

10 **§2302. General provisions**

11 **1. Deduction for each day in execution of sentence of imprisonment.** An

12 individual committed to the custody of the Department of Corrections or a jail whose

13 sentence of imprisonment has commenced pursuant to section 2303 must receive a day-

14 for-day deduction from that individual's sentence of imprisonment for each day the

15 individual is in execution of that sentence. This day-for-day deduction may not be

16 withdrawn. Prior to the day-for-day deduction being given, the sentence must first be

17 reduced by any deduction for time detained to which the individual is entitled pursuant to

18 section 2305.

19 **2. Start of consecutive sentence.** A consecutive sentence may not begin until the

20 sentence involving imprisonment that the consecutive sentence immediately follows in

21 time has been fully served.

22 **3. Application of deduction for concurrent sentences.** While an individual is in

23 execution of concurrent sentences pursuant to subsection 1, a day-for-day deduction must

24 be accorded on all the sentences simultaneously.

25 **4. Application of deduction for consecutive sentences.** While an individual is in

26 execution of a consecutive sentence pursuant to subsection 1, a day-for-day deduction

27 may be accorded on only one sentence at a time.

28 **§2303. Commencement of sentence of imprisonment**

29 **1. Commitment to Department of Corrections.** The sentence of imprisonment of

30 an individual committed to the custody of the Department of Corrections to serve that

31 sentence commences on the date on which that individual is received into the correctional

32 facility designated as the initial place of confinement by the Commissioner of Corrections

33 or the commissioner's designee pursuant to section 2304. That day is counted as the first

34 full day of the sentence.

35 **2. Commitment to specified jail.** The sentence of imprisonment of an individual

36 committed to the custody of a jail to serve that sentence commences on the date on which

37 that individual is received into the jail specified in the sentence. That day is counted as

38 the first full day of the sentence if the term of imprisonment, or the unsuspended portion

1 of the term of imprisonment, is over 30 days; otherwise, a deduction is accorded only for
2 the portion of that day for which the individual is actually in execution of the sentence.

3 **3. Commitment with concurrent sentence of imprisonment from another**
4 **jurisdiction.** When an individual is sentenced to a concurrent sentence of imprisonment
5 as authorized by section 1608, subsection 6, the provisions of this chapter apply and must
6 be administered by the chief administrative officer of this State's correctional facility
7 when the individual is committed to the custody of the Department of Corrections or by
8 the jail administrator of a jail in this State when the individual is committed to the
9 custody of the jail. If the individual is released from imprisonment under the sentence of
10 the other jurisdiction prior to the termination of this State's sentence, the individual shall
11 serve the remainder of this State's sentence at the appropriate correctional facility or jail
12 in this State.

13 **§2304. Notification of commitment to Department of Corrections**

14 At the time of sentencing, the sheriff or the sheriff's designee shall notify the
15 Commissioner of Corrections or the commissioner's designee that an individual has been
16 committed to the Department of Corrections and shall inquire as to the correctional
17 facility to which the individual must be delivered by the sheriff or the sheriff's designee.
18 The commissioner or the commissioner's designee has complete discretion to determine
19 the initial place of confinement. In making this determination, the commissioner or the
20 commissioner's designee shall review all relevant information, including any available
21 mental health information. The commissioner or the commissioner's designee shall
22 immediately inform the sheriff or the sheriff's designee of the location of the correctional
23 facility to which the individual must be transported.

24 **§2305. Deductions from sentence of imprisonment for time detained**

25 **1. Deductions for detention permitted.** An individual sentenced to imprisonment
26 who has been detained for the conduct for which that sentence is imposed while awaiting
27 trial, during trial, post-trial while awaiting sentencing or post-sentencing prior to the date
28 on which the sentence commenced either to await transportation to the place of
29 imprisonment specified or pursuant to court order, and not in execution of any other
30 sentence of confinement, must receive a day-for-day deduction from the total term of
31 imprisonment required under that sentence if that individual is detained in:

32 A. This State in a correctional facility, mental health institute or jail or in any local
33 lockup; or

34 B. Another jurisdiction in a federal, state or county institution, local lockup or
35 similar facility, including any detention resulting from being a fugitive from justice,
36 as defined by Title 15, section 201, subsection 4, unless the individual has
37 simultaneously been detained for non-Maine conduct.

38 For the purpose of calculating the day-for-day deduction specified by this subsection,
39 "day" means 24 hours, except that for an individual who commits a crime on or after
40 October 15, 2011, who has been detained for the conduct for which the individual is
41 sentenced to a term of imprisonment of 96 hours or less, any portion of a day detained

1 short of 24 hours must also be deducted from the total term of imprisonment required
2 under that sentence.

3 **2. Deductions for detention not permitted.** An individual who, in addition to
4 being detained pursuant to subsection 1, has been simultaneously detained for conduct for
5 which the individual is sentenced to a consecutive sentence may not receive a day-for-day
6 deduction from the consecutive sentence for the period of simultaneous detention except
7 for any period of detention that is longer than the total term of imprisonment required
8 under the sentence to be served prior to the consecutive sentence.

9 **3. Timing of application of deductions.** The total term required under a sentence of
10 imprisonment is reduced by the total deduction under this section prior to applying any of
11 the other deductions specified in this chapter or in Title 30-A, section 1606.

12 **4. Additional deduction when warranted for crime committed on or after**
13 **August 1, 2004.** An individual may receive a deduction of up to 2 days per calendar
14 month in addition to the day-for-day deduction provided pursuant to subsection 1 if:

15 A. The individual commits a crime on or after August 1, 2004 and is sentenced to a
16 term of imprisonment for that crime; and

17 B. The individual is entitled to a day-for-day deduction pursuant to subsection 1 and
18 the individual's conduct during that period of detention is such that the additional
19 deduction is determined to be warranted in the discretion of the chief administrative
20 officer of the facility in which the individual has been detained.

21 Deductions under this subsection must be calculated as follows for partial calendar
22 months:

23

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

26

27 **5. Deduction for detention may not be withdrawn.** A deduction for detention to
28 which the individual is entitled may not be withdrawn.

29 **6. Transporter's duty to provide statement of time detained.** The sheriff or the
30 sheriff's designee shall furnish to the administrator of the facility to which the individual
31 is being delivered and the attorney for the State, within 30 days of delivery, a statement
32 showing the length of that detention. The administrator shall use the statement furnished
33 to determine the day-for-day deduction to which the individual is entitled pursuant to
34 subsections 1 and 4, if any, unless, within 15 days of its receipt, the attorney for the State
35 furnishes a revised statement to the administrator.

36 **§2306. Deductions for time detained; special circumstances**

37 **1. Time detained for failure to appear for a default hearing.** An individual
38 arrested and detained for failing to appear for a hearing to explain nonpayment of a fine, a

1 county jail reimbursement fee or restitution or to explain nonperformance of community
2 service work who subsequently is committed by the court conducting the default hearing
3 to the custody of a jail for an unexcused default must receive a day-for-day deduction
4 from the length of the confinement specified in the court's order for each day detained as
5 a result of the arrest pursuant to section 1711, subsection 4; section 1751, subsection 6;
6 section 2015, subsection 3; or section 2033, subsection 6.

7 **2. Arrest and detention pending probation or administrative release revocation**
8 **proceeding.** If an individual is detained in a correctional facility, mental health institute
9 or jail pending a probation or administrative release revocation proceeding and is not in
10 execution of any other sentence of confinement, that period of detention must be
11 deducted from the time the individual is required to serve under that portion of the
12 sentence for which the suspension of execution was vacated as a result of the probation or
13 administrative release revocation. An individual who is simultaneously detained for
14 conduct for which the individual receives a consecutive term of imprisonment is not
15 entitled to receive a day-for-day deduction from the consecutive term of imprisonment for
16 the period of simultaneous detention except for any period of detention that is longer than
17 the term of imprisonment to be served prior to the consecutive sentence.

18 **§2307. Discretionary deductions for individual who commits crime on or after**
19 **August 1, 2004, except for certain listed crimes**

20 **1. Application.** The provisions of this section apply only to an individual who, on or
21 after August 1, 2004, commits a crime and is sentenced to imprisonment for that crime,
22 except for the following:

23 A. Murder;

24 B. A crime listed under chapter 11;

25 C. A crime listed under section 556;

26 D. A crime listed under section 854, excluding subsection 1, paragraph A,
27 subparagraph (1);

28 E. A crime listed under chapter 12; or

29 F. A crime against a family or household member listed under chapter 9 or 13 or
30 section 506-B, 554, 555 or 758.

31 **2. Discretionary 4 days per month deduction based on conduct.** For an
32 individual who commits a crime and is subsequently in the custody of the Department of
33 Corrections or a jail in execution of a sentence of imprisonment for that crime, up to 4
34 days per calendar month may be deducted from that sentence, calculated from the date of
35 its commencement, if that individual's conduct during that calendar month is such that the
36 deduction is determined to be warranted in the discretion of the chief administrative
37 officer of the correctional facility or the jail administrator.

38 Deductions under this subsection must be calculated as follows for partial calendar
39 months:

	<u>Days of partial month</u>	<u>Maximum deduction available</u>
1		
2	<u>1 to 7 days</u>	<u>up to 1</u>
3	<u>8 to 15 days</u>	<u>up to 2</u>
4	<u>16 to 23 days</u>	<u>up to 3</u>
5	<u>24 to 31 days</u>	<u>up to 4</u>

6 **3. Discretionary 3 days per month deduction based on fulfillment of assigned**
7 **responsibilities for individual in custody of Department of Corrections or jail.** For
8 an individual who commits a crime and is subsequently in the custody of the Department
9 of Corrections or a jail in execution of a sentence of imprisonment for that crime, in
10 addition to the days of deduction provided for in subsection 2, up to 3 days per calendar
11 month may be deducted from that sentence, calculated from the date of its
12 commencement, if that individual's fulfillment of responsibilities assigned in the
13 individual's transition plan for work, education or rehabilitation programs during that
14 calendar month is such that the deduction is determined to be warranted in the discretion
15 of the chief administrative officer of the correctional facility or the jail administrator.

16 Deductions under this subsection must be calculated as follows for partial calendar
17 months:

	<u>Days of partial month</u>	<u>Maximum deduction available</u>
18		
19	<u>1 to 10 days</u>	<u>up to 1</u>
20	<u>11 to 20 days</u>	<u>up to 2</u>
21	<u>21 to 31 days</u>	<u>up to 3</u>

22 **4. Discretionary 2 days per month deduction based on fulfillment of assigned**
23 **responsibilities only for individual in custody of Department of Corrections.** For an
24 individual who commits a crime and is subsequently in the custody of the Department of
25 Corrections in execution of a sentence of imprisonment for that crime, in addition to the
26 days of deduction provided for in subsections 2 and 3, up to 2 days per calendar month
27 also may be deducted from that sentence, calculated from the date of its commencement,
28 if that individual's fulfillment of responsibilities assigned in the individual's transition
29 plan for community work, education or rehabilitation programs during that calendar
30 month is such that the deduction is determined to be warranted in the discretion of the
31 chief administrative officer of the correctional facility.

32 Deductions under this subsection must be calculated as follows for partial calendar
33 months:

	<u>Days of partial month</u>	<u>Maximum deduction available</u>
34		
35	<u>1 to 15 days</u>	<u>up to 1</u>
36	<u>16 to 31 days</u>	<u>up to 2</u>

37 **5. Withdrawal of discretionary deductions.** Any portion of the time deducted
38 from the sentence of an individual pursuant to subsection 2, 3 or 4 may be withdrawn by
39 the chief administrative officer of the correctional facility for a disciplinary offense or for

1 the violation of any law of the State in accordance with Title 34-A, section 3032 and the
2 rules adopted under that section or by the jail administrator in accordance with jail
3 disciplinary procedures. Deductions may be withdrawn for months already served or yet
4 to be served by the individual up to and including the maximum authorized for that
5 sentence.

6 **6. Restoration of discretionary deductions.** The chief administrative officer of the
7 correctional facility or the jail administrator may restore any portion of deductions that
8 have been withdrawn under subsection 5 if the individual's later conduct and fulfillment
9 of responsibilities assigned in the individual's transition plan for work, education or
10 rehabilitation programs are such that the restoration is determined to be warranted in the
11 discretion of the chief administrative officer or the jail administrator.

12 **7. Calculation of deduction for work in excess of 8 hours.** The Commissioner of
13 Corrections or the sheriff may establish policy and guidelines for crediting hours of
14 participation in work in excess of 8 hours in a day toward another day for the purpose of
15 calculating deductions from a sentence under subsections 3 and 4.

16 **8. Calculation of deductions following imposition of new or revised sentence of**
17 **imprisonment for same offense.** When a judgment of conviction involving a term of
18 imprisonment is vacated or a sentence involving a term of imprisonment is revised or
19 reviewed and a new sentence involving a term of imprisonment is thereafter imposed
20 upon the individual for the same offense, the day-for-day deduction must be accorded on
21 the new sentence both for each day the individual served in execution of the initial
22 sentence pursuant to section 2302, subsection 1 and for all previously earned deductions
23 specified in this section and Title 30-A, section 1606. Prior to the day-for-day deduction
24 being given on the new sentence, the new sentence must be reduced by any deductions
25 specified in section 2305 previously or subsequently received. The deductions applied to
26 the new sentence must be calculated in accordance with this section.

27 **§2308. Discretionary deductions based on conduct and fulfillment of responsibilities**
28 **for individuals who commit certain crimes on or after August 1, 2004**

29 **1. Application.** The provisions of this section apply only to an individual who
30 commits on or after August 1, 2004 one or more of the following crimes and is sentenced
31 to imprisonment for that crime:

32 A. Murder;

33 B. A crime listed under chapter 11;

34 C. A crime listed under section 556;

35 D. A crime listed under section 854, excluding subsection 1, paragraph A,
36 subparagraph (1);

37 E. A crime listed under chapter 12; or

38 F. A crime against a family or household member listed under chapter 9 or 13 or
39 section 506-B, 554, 555 or 758.

1 **2. Commitment to Department of Corrections or specified jail; discretionary 5**
2 **days per month deduction.** For an individual who commits a crime and is in the
3 custody of the Department of Corrections or a jail in execution of a sentence of
4 imprisonment for that crime, up to 5 days per calendar month may be deducted from that
5 sentence, calculated from the date of its commencement, if that individual's conduct,
6 participation in programs and fulfillment of assigned responsibilities during that calendar
7 month are such that the deduction is determined to be warranted in the discretion of the
8 chief administrative officer of the correctional facility or the jail administrator.

9 Deductions under this subsection must be calculated as follows for partial calendar
10 months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 6 days</u>	<u>up to 1</u>
<u>7 to 12 days</u>	<u>up to 2</u>
<u>13 to 18 days</u>	<u>up to 3</u>
<u>19 to 24 days</u>	<u>up to 4</u>
<u>25 to 31 days</u>	<u>up to 5</u>

17 **3. Withdrawal of discretionary deductions.** Any portion of the time deducted
18 from the sentence of an individual pursuant to subsection 2 may be withdrawn by the
19 chief administrative officer of the correctional facility for a disciplinary offense or for the
20 violation of any law of the State in accordance with Title 34-A, section 3032 and the rules
21 adopted under that section or by the jail administrator in accordance with jail disciplinary
22 procedures. Deductions may be withdrawn for months already served or yet to be served
23 by the individual up to and including the maximum authorized for that sentence.

24 **4. Restoration of discretionary deductions.** The chief administrative officer of the
25 correctional facility or the jail administrator may restore any portion of deductions that
26 have been withdrawn under subsection 3 if the individual's later conduct, participation in
27 programs and fulfillment of assigned responsibilities are such that the restoration is
28 determined to be warranted in the discretion of the chief administrative officer or jail
29 administrator.

30 **5. Calculation of deduction for work in excess of 8 hours.** The Commissioner of
31 Corrections or the sheriff may establish policy and guidelines for crediting hours of
32 participation in work in excess of 8 hours in a day toward another day for the purpose of
33 calculating deductions from a sentence under subsection 2.

34 **6. Calculation of deductions following imposition of new or revised sentence of**
35 **imprisonment for same offense.** When a judgment of conviction involving a term of
36 imprisonment is vacated or a sentence involving a term of imprisonment is revised or
37 reviewed and a new sentence involving a term of imprisonment is thereafter imposed
38 upon the individual for the same offense, the day-for-day deduction must be accorded on
39 the new sentence both for each day the individual served in execution of the initial
40 sentence pursuant to section 2302, subsection 1 and for all previously earned deductions
41 specified in this section and Title 30-A, section 1606. Prior to the day-for-day deduction
42 being given on the new sentence, the new sentence must be reduced by any deductions

1 specified in section 2305 previously or subsequently received. The deductions applied to
2 the new sentence must be calculated in accordance with this section.

3 **§2309. Discretionary deductions based on conduct and participation for individual**
4 **who committed crime on or after October 1, 1995 but before August 1, 2004**

5 **1. Application.** This section applies only to an individual who committed a crime
6 on or after October 1, 1995 but before August 1, 2004 and was sentenced to
7 imprisonment for that crime.

8 **2. Commitment to Department of Corrections or jail; discretionary 5 days per**
9 **month deduction.** For an individual who committed a crime on or after October 1, 1995,
10 but before August 1, 2004, and is in the custody of the Department of Corrections or a jail
11 in execution of a sentence of imprisonment for that crime, up to 5 days per calendar
12 month may be deducted from that sentence, calculated from the date of its
13 commencement, if that individual's conduct, participation in programs and fulfillment of
14 assigned responsibilities during that calendar month are such that the deduction is
15 determined to be warranted in the discretion of the chief administrative officer of the
16 correctional facility or the jail administrator.

17 Deductions under this subsection must be calculated as follows for partial calendar
18 months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 6 days</u>	<u>up to 1</u>
<u>7 to 12 days</u>	<u>up to 2</u>
<u>13 to 18 days</u>	<u>up to 3</u>
<u>19 to 24 days</u>	<u>up to 4</u>
<u>25 to 31 days</u>	<u>up to 5</u>

25 **3. Withdrawal of discretionary deductions.** Any portion of the time deducted
26 from the sentence of an individual pursuant to subsection 2 may be withdrawn by the
27 chief administrative officer of the correctional facility for a disciplinary offense or for the
28 violation of any law of the State in accordance with Title 34-A, section 3032 and the rules
29 adopted under that section or by the jail administrator in accordance with jail disciplinary
30 procedures. Deductions may be withdrawn for months already served or yet to be served
31 by the individual up to and including the maximum authorized for that sentence.

32 **4. Restoration of discretionary deductions.** The chief administrative officer of the
33 correctional facility or the jail administrator may restore any portion of deductions that
34 have been withdrawn under subsection 3 if the individual's later conduct, participation in
35 programs and fulfillment of assigned responsibilities are such that the restoration is
36 determined to be warranted in the discretion of the chief administrative officer or jail
37 administrator.

38 **5. Calculation of deduction for work in excess of 8 hours.** The Commissioner of
39 Corrections or the sheriff may establish policy and guidelines for crediting hours of

1 participation in work in excess of 8 hours in a day toward another day for the purpose of
2 calculating deductions from a sentence under subsection 2.

3 **6. Calculation of deductions following imposition of new or revised sentence of**
4 **imprisonment for same offense.** When a judgment of conviction involving a term of
5 imprisonment is vacated or a sentence involving a term of imprisonment is revised or
6 reviewed and a new sentence involving a term of imprisonment is thereafter imposed
7 upon the individual for the same offense, the day-for-day deduction must be accorded on
8 the new sentence both for each day the individual served in execution of the initial
9 sentence pursuant to section 2302, subsection 1 and for all previously earned deductions
10 specified in subsection 2 and Title 30-A, section 1606. Prior to the day-for-day deduction
11 being given on the new sentence, the new sentence must be reduced by any deductions
12 specified in section 2305 previously or subsequently received. The deductions applied to
13 the new sentence must be calculated in accordance with this section.

14 **§2310. Deductions for individual who committed crime before October 1, 1995 and**
15 **was sentenced on or after October 1, 1983**

16 **1. Application.** This section applies only to an individual who committed a crime
17 on or after May 1, 1976 but before October 1, 1995 and who was sentenced on or after
18 October 1, 1983 to imprisonment for that crime.

19 **2. Deduction for individual sentenced to imprisonment for more than 6 months.**
20 Beginning October 1, 1983, an individual sentenced to imprisonment for more than 6
21 months must receive a deduction of 10 days per month for observing all rules of the
22 Department of Corrections and the correctional facility where that individual is confined
23 or the jail where that individual is confined. The period from which the deduction is
24 made must be calculated from the first day the individual is received into the custody of
25 the department or the jail and includes the full length of any imprisonment ordered to be
26 served. This deduction does not apply to any suspended portion of the individual's
27 sentence. For the purpose of calculating the deduction under this subsection, a month is
28 30 days and a year is 12 months.

29 Deductions under this subsection must be calculated as follows for partial months:

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

1 **3. Deduction for individual sentenced to imprisonment for 6 months or less.**
2 Beginning October 1, 1983, an individual sentenced to imprisonment for 6 months or less
3 must receive a deduction of 3 days per month for observing all the rules of the
4 Department of Corrections and the correctional facility where that individual is confined
5 or the jail where that individual is confined. The period from which the deduction is
6 made must be calculated from the first day the individual is received into the custody of
7 the department or the jail and includes the full length of any imprisonment order to be
8 served. This deduction does not apply to any suspended imprisonment portion of an
9 individual's sentence. For the purpose of calculating the deduction under this subsection,
10 a month is 30 days.

11 Deductions under this subsection must be calculated as follows for partial months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>0 to 7 days</u>	<u>0</u>
<u>8 to 15 days</u>	<u>1</u>
<u>16 to 23 days</u>	<u>2</u>
<u>24 to 30 days</u>	<u>3</u>

17 **4. Withdrawal of deductions.** Any portion of the time deducted from the sentence
18 of an individual pursuant to subsection 2 or 3 may be withdrawn by the chief
19 administrative officer of the correctional facility or the jail administrator for the infraction
20 of any rule of the correctional facility or jail, for any misconduct or for the violation of
21 any law of the State. The withdrawal of a deduction may be made at the discretion of the
22 chief administrative officer or jail administrator, in accordance with policies and
23 guidelines established by the Department of Corrections or by the jail administrator in
24 accordance with jail disciplinary procedures.

25 **5. Restoration of deductions.** The chief administrative officer of the correctional
26 facility or the jail administrator may restore any portion of the deductions that have been
27 withdrawn pursuant to subsection 4 if the individual's later conduct and outstanding effort
28 are determined in the discretion of the chief administrative officer or jail administrator to
29 warrant that restoration.

30 **6. Commitment to Department of Corrections or jail; additional 3 days per**
31 **month deduction not subject to withdrawal.** An individual in the custody of the
32 Department of Corrections or a jail in execution of a sentence of imprisonment for a
33 crime committed before October 1, 1995 may earn and have deducted up to 3 days per
34 month in addition to the deduction provided pursuant to subsections 2 and 3 if the
35 individual is assigned to or participates in work, education or other responsibilities within
36 the correctional facility or jail or a program that are determined to be of sufficient
37 importance to warrant those deductions in the discretion of the chief administrative
38 officer of the correctional facility or the jail administrator in accordance with policy and
39 guidelines established by the Department of Corrections or sheriff. A deduction awarded
40 under this subsection may not be withdrawn by the chief administrative officer or the jail
41 administrator. For the purpose of calculating a deduction under this subsection, "month"
42 means a calendar month.

1 Deductions made under this subsection must be calculated as follows for partial months:

<u>Days of partial month</u>	<u>Maximum deduction 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>

6 **7. Commitment to Department of Corrections for crime committed before**
7 **October 1, 1995; additional 2 days per month deduction not subject to withdrawal.**

8 An individual in the custody of the Department of Corrections in execution of a sentence
9 of imprisonment for a crime committed before October 1, 1995 may earn and have
10 deducted up to 2 days per month in addition to the days of deductions provided for in
11 subsections 2, 3 and 6 if the individual is assigned to and participates in minimum
12 security or community programs administered by the department. These deductions may
13 also apply if the individual is assigned to or participates in minimum security or
14 community programs through agencies providing services to the department. These
15 deductions may be authorized for work and responsibilities, to include public restitution,
16 that are considered to be of sufficient importance to warrant those deductions in the
17 discretion of the chief administrative officer of the correctional facility in accordance
18 with department policy and guidelines. A deduction awarded under this subsection may
19 not be withdrawn by the chief administrative officer. For the purpose of calculating a
20 deduction under this subsection, "month" means a calendar month.

21 Deductions made under this subsection must be calculated as follows for partial months:

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

25 **8. Calculation of deduction for work in excess of 8 hours.** The Commissioner of
26 Corrections or the sheriff may establish policy and guidelines for crediting hours of
27 participation in work in excess of 8 hours in a day toward another day for the purpose of
28 calculating deductions from a sentence of imprisonment under subsections 6 and 7.

29 **9. Calculation of deductions following imposition of new or revised sentence of**
30 **imprisonment for same offense.** When a judgment of conviction involving a term of
31 imprisonment is vacated or a sentence involving a term of imprisonment is revised or
32 reviewed and a new sentence involving a term of imprisonment is thereafter imposed
33 upon the individual for the same offense, the day-for-day deduction must be accorded on
34 the new sentence both for each day the individual served in execution of the initial
35 sentence pursuant to section 2302, subsection 1 and for all previously earned deductions
36 specified in subsections 2, 3, 6 and 7 and Title 30-A, section 1606. Prior to the day-for-
37 day deduction being given on the new sentence, the new sentence must be reduced by any
38 deductions specified in section 2305 previously or subsequently received. The
39 deductions applied to the new sentence must be calculated in accordance with this
40 section.

1 **§2311. Deductions for individual who committed crime before October 1, 1995 and**
2 **was sentenced prior to October 1, 1983**

3 **1. Application.** This section applies only to an individual who committed a crime
4 on or after May 1, 1976 but before October 1, 1995 and who was sentenced prior to
5 October 1, 1983 to imprisonment for that crime.

6 **2. Deductions based on law in effect at time of offense.** Unless otherwise
7 specifically provided by law, deductions based on conduct and participation from a
8 sentence that was imposed prior to October 1, 1983 must be calculated in accordance
9 with the laws in effect on the date the offense was committed. When a judgment of
10 conviction involving a term of imprisonment is vacated or a sentence involving a term of
11 imprisonment is revised or reviewed and a new sentence involving a term of
12 imprisonment is thereafter imposed for the same offense, calculation of deductions based
13 on conduct and participation must be in accordance with the laws in effect on the date
14 that offense was committed.

15 **§2312. Deductions applicable to concurrent sentences resulting from new criminal**
16 **conduct while on probation or administrative release**

17 **1. Revocation of probation or administrative release by court before conviction**
18 **and sentence for new criminal conduct.** An individual whose probation or
19 administrative release is revoked by a court for new criminal conduct must receive a
20 deduction for the time the individual serves as a result of the revocation from the sentence
21 that is the result of a conviction for the new criminal conduct if:

22 A. The new criminal conduct is committed during the probation or administrative
23 release;

24 B. The revocation of probation or administrative release occurs before the conviction
25 for the new criminal conduct;

26 C. The individual is subsequently convicted of a crime arising out of the new
27 criminal conduct; and

28 D. Concurrent sentences are imposed by the court that do not commence on the same
29 date.

30 **2. Revocation of probation or administrative release by court after conviction**
31 **and sentence for new criminal conduct.** An individual whose probation or
32 administrative release is revoked by a court following a conviction for new criminal
33 conduct must receive a deduction for the time the individual serves as a result of the
34 conviction for the new criminal conduct from the time the individual is required to serve
35 as a result of the revocation if:

36 A. The new criminal conduct is committed during the probation or administrative
37 release;

38 B. The revocation of probation or administrative release occurs after the conviction
39 for the new criminal conduct;

1 C. The individual is subsequently convicted of a crime arising out of the new
2 criminal conduct; and

3 D. Concurrent sentences are imposed by the court that do not commence on the same
4 date.

5 **§2313. Deductions relative to parole eligibility for individual sentenced prior to**
6 **effective date of Maine Criminal Code**

7 An individual convicted of an offense committed prior to May 1, 1976 and sentenced
8 under the law then in effect may elect to have that individual's parole eligibility calculated
9 using the deductions based on conduct and participation available to individuals
10 sentenced under this Code. The election must result in the application of deductions
11 pursuant to section 2310. The parole eligibility and deductions based on conduct and
12 participation of an individual who does not so elect must be calculated in accordance with
13 the laws in effect on the date the offense was committed. This section may not be
14 construed to compel or permit discharge of any individual sooner than the discharge
15 would have occurred under the law in effect on the date the offense was committed.

16 **§2314. Release from imprisonment**

17 **1. Unconditional release and discharge.** An individual committed to the custody
18 of the Department of Corrections or a jail in execution of a sentence of imprisonment
19 must be unconditionally released and discharged upon the expiration of that individual's
20 sentence, as determined after the deductions afforded that individual under this chapter,
21 except that release is subject to the following provisions.

22 A. If the applicable calculations for an individual committed to the custody of the
23 Department of Corrections fix the release and discharge date on a Saturday, Sunday
24 or legal holiday, that individual may be released and discharged on the last regular
25 business day of the correctional facility preceding that Saturday, Sunday or legal
26 holiday.

27 B. If the length of the term of imprisonment to be served by an individual committed
28 to the custody of a jail is 8 days or more, that individual may be released at any time
29 on the final day of imprisonment, in accordance with jail release procedures;
30 otherwise, that individual may not be released until the sentence expires.

31 **2. Release of individual sentenced prior to effective date of Maine Criminal**
32 **Code.** An individual in the custody of the Department of Corrections pursuant to a
33 sentence imposed under the law in effect prior to May 1, 1976 must be released and
34 discharged according to the law as it was in force prior to May 1, 1976 and such law
35 continues in force for this purpose as if this Code were not enacted.

36 **PART B**

37 **Sec. B-1. 17-A MRSA §2, sub-§§5-C and 5-D** are enacted to read:

38 **5-C. Concurrent sentence.** "Concurrent sentence" means a sentence involving
39 imprisonment that runs at the same time as one or more other sentences involving
40 imprisonment while an individual is simultaneously in execution of each of them. A

1 sentence involving imprisonment does not need to be imposed at the same time or begin
2 or end at the same time as another sentence to be a concurrent sentence.

3 **5-D. Consecutive sentence.** "Consecutive sentence" means a sentence involving
4 imprisonment that immediately follows in time another sentence involving imprisonment.
5 A sentence is not a consecutive sentence with respect to another sentence if an individual
6 is in execution of both sentences at any time. A sentence involving imprisonment does
7 not need to be imposed at the same time as another sentence to be a consecutive sentence.

8 **Sec. B-2. 17-A MRSA §2, sub-§7-A** is enacted to read:

9 **7-A. Day.** "Day," for purposes of imposing imprisonment or probation,
10 administrative release or supervised release, means 24 hours.

11 **Sec. B-3. 17-A MRSA §2, sub-§14-A** is enacted to read:

12 **14-A. Individual.** "Individual" means a human being.

13 **Sec. B-4. 17-A MRSA §2, sub-§15-A** is enacted to read:

14 **15-A. Jail.** "Jail" means a specially constructed or modified facility designated by
15 law or regularly used for detention for a period of up to 12 months.

16 **Sec. B-5. 17-A MRSA §2, sub-§17-A** is enacted to read:

17 **17-A. Month.** "Month," for purposes of imposing imprisonment or probation,
18 administrative release or supervised release, means 30 days.

19 **Sec. B-6. 17-A MRSA §2, sub-§23-B** is enacted to read:

20 **23-B. Split sentence.** "Split sentence" means a sentence involving imprisonment, an
21 initial portion of which is served and the remainder of which is suspended, accompanied
22 by probation or administrative release.

23 **Sec. B-7. 17-A MRSA §2, sub-§§26 and 27** are enacted to read:

24 **26. Week.** "Week," for purposes of imposing imprisonment or probation,
25 administrative release or supervised release, means 7 days.

26 **27. Year.** "Year," for purposes of imposing imprisonment or probation,
27 administrative release or supervised release, means 365 days.

28 **Sec. B-8. 17-A MRSA §6, sub-§1,** as amended by PL 1989, c. 502, Pt. D, §9, is
29 further amended to read:

30 **1.** The provisions of Parts 1 ~~and 3~~, 6 and 7 and chapter 7 are applicable to crimes
31 defined outside this code, unless the context of the statute defining the crime clearly
32 requires otherwise.

1 **Sec. B-9. 17-A MRSA §201, sub-§2**, as amended by PL 2001, c. 383, §8 and
2 affected by §156, is further amended to read:

3 **2. Murder.** The sentence for murder is as authorized in chapter 54 63.

4 **Sec. B-10. 17-A MRSA §207, sub-§3**, as enacted by PL 2005, c. 12, Pt. JJ, §1, is
5 amended to read:

6 **3. Minimum fine.** For a violation under subsection 1, the court shall impose a
7 sentencing alternative that involves a fine of not less than \$300, which may not be
8 suspended except as provided in subsection 4.

9 **Sec. B-11. 17-A MRSA §207, sub-§4** is enacted to read:

10 **4. Finding by court necessary to impose other than minimum fine.** In the case of
11 an individual, the court may suspend all or a portion of a minimum fine under subsection
12 3 or impose a lesser fine other than the mandatory fine if the court finds by a
13 preponderance of the evidence that there are exceptional circumstances that justify
14 imposition of a lesser financial penalty. In making a finding of exceptional
15 circumstances, the court may consider:

16 A. Reliable evidence of financial hardship on the part of the individual and the
17 individual's family and dependents;

18 B. Reliable evidence of special needs of the individual or the individual's family and
19 dependents;

20 C. Reliable evidence of the individual's income and future earning capacity and the
21 individual's assets and financial resources from whatever source;

22 D. Reliable evidence regarding any pecuniary gain derived from the commission of
23 the offense; and

24 E. The impact of imposition of the mandatory fine on the individual's reasonable
25 ability to pay restitution under chapter 69.

26 **Sec. B-12. 17-A MRSA §253, sub-§6**, as amended by PL 2001, c. 383, §20 and
27 affected by §156, is repealed.

28 **Sec. B-13. 17-A MRSA §253, sub-§7**, as enacted by PL 1997, c. 768, §2, is
29 repealed.

30 **Sec. B-14. 17-A MRSA §253-A** is enacted to read:

31 **§253-A. Special sentencing provisions for gross sexual assault**

32 **1. Any term of years; nonmandatory sentence alternative.** If the State pleads and
33 proves that the defendant is a repeat sexual assault offender, the court may impose a
34 definite term of imprisonment for any term of years. The court also may impose as part
35 of the sentence either a period of probation of any term of years pursuant to section 1804,
36 subsection 4 or a period of supervised release of any term of years pursuant to section
37 1881, subsection 2, paragraph A.

1 As used in this subsection, "repeat sexual assault offender" means a person who commits
2 a new gross sexual assault after having been convicted previously and sentenced for any
3 of the following:

4 A. Gross sexual assault, formerly denominated as gross sexual misconduct;

5 B. Rape;

6 C. Attempted murder accompanied by sexual assault;

7 D. Murder accompanied by sexual assault; or

8 E. Conduct substantially similar to a crime listed in paragraphs A to D that is a crime
9 under the laws of another jurisdiction.

10 For purposes of determining whether a defendant is a repeat sexual assault offender, the
11 date of sentencing is the date of the oral pronouncement of the sentence by the trial court,
12 even if an appeal is taken.

13 "Accompanied by sexual assault" as used with respect to attempted murder, murder and
14 crimes involving substantially similar conduct in another jurisdiction is satisfied if it was
15 definitionally an element of the crime or was pleaded and proved.

16 **2. Any term of years; mandatory sentence alternative.** If the State pleads and
17 proves that a crime under section 253 was committed against an individual who had not
18 yet attained 12 years of age, the court shall impose a definite term of imprisonment for
19 any term of years. In determining the basic term of imprisonment as the first step in the
20 sentencing process specified in section 1602, subsection 1, paragraph A, the court shall
21 select a definite term of at least 20 years. The court shall also impose as part of the
22 sentence a period of supervised release to immediately follow that definite term of
23 imprisonment as mandated by section 1881, subsection 1.

24 **3. Aggravating sentencing factors.** The court shall treat the following as an
25 aggravating sentencing factor.

26 A. If the State pleads and proves that a Class A crime of gross sexual assault was
27 committed by an individual who had previously been convicted and sentenced for a
28 Class B or Class C crime of unlawful sexual contact, or an essentially similar crime
29 in another jurisdiction, the court, in determining the appropriate sentence, shall treat
30 as an aggravating sentencing factor that prior conviction.

31 B. If the State pleads and proves that a violation of section 253, subsection 1 or 2
32 was committed in a safe children zone, the court, in determining the appropriate
33 sentence, shall treat this as an aggravating sentencing factor.

34 C. In using a sentencing alternative involving a term of imprisonment for an
35 individual convicted of violating section 253, a court, in determining the maximum
36 period of incarceration as the 2nd step in the sentencing process specified in section
37 1602, subsection 1, paragraph B, shall treat each prior Maine conviction for a
38 violation of section 253 as an aggravating sentencing factor.

39 (1) When the sentencing class for a prior conviction under section 253 is Class
40 A, the court shall enhance the basic period of incarceration by a minimum of 4
41 years of imprisonment.

1 (2) When the sentencing class for a prior conviction under section 253 is Class
2 B, the court shall enhance the basic period of incarceration by a minimum of 2
3 years of imprisonment.

4 (3) When the sentencing class for a prior conviction under section 253 is Class
5 C, the court shall enhance the basic period of incarceration by a minimum of one
6 year of imprisonment.

7 D. In arriving at the final sentence as the 3rd step in the sentencing process specified
8 in section 1602, subsection 1, paragraph C, the court may not suspend that portion of
9 the maximum term of incarceration based on a prior conviction.

10 **Sec. B-15. 17-A MRSA §282, sub-§3** is enacted to read:

11 **3. Aggravating sentencing factor of victim under 12 years of age.** If the State
12 pleads and proves that a crime under this section was committed against an individual
13 who had not attained 12 years of age, the court, in determining the appropriate sentence,
14 shall treat the age of the victim as an aggravating sentencing factor.

15 **Sec. B-16. 17-A MRSA §1125** is enacted to read:

16 **§1125. Mandatory minimum term of imprisonment for certain drug offenses**

17 **1. Minimum term of imprisonment.** Except as otherwise provided in subsections 2
18 and 3, for a person convicted of violating section 1105-A, 1105-B, 1105-C, 1105-D or
19 1118-A the minimum term of imprisonment, which may not be suspended, is as follows:

20 A. When the sentencing class is Class A, the minimum term of imprisonment is 4
21 years;

22 B. When the sentencing class is Class B, the minimum term of imprisonment is 2
23 years; and

24 C. With the exception of a conviction under section 1105-A, 1105-B, 1105-C or
25 1105-D when the drug that is the basis for the charge is marijuana, when the
26 sentencing class is Class C, the minimum term of imprisonment is one year.

27 **2. Finding by court necessary to impose other than mandatory minimum term**
28 **of imprisonment.** The court may impose a sentence other than a minimum unsuspended
29 term of imprisonment set forth in subsection 1 if:

30 A. The court finds by substantial evidence that:

31 (1) Imposition of a minimum unsuspended term of imprisonment under
32 subsection 1 will result in substantial injustice to the individual. In making this
33 determination, the court shall consider, among other considerations, whether the
34 individual did not know and reasonably should not have known that the victim
35 was less than 18 years of age;

36 (2) Failure to impose a minimum unsuspended term of imprisonment under
37 subsection 1 will not have an adverse effect on public safety; and

1 (3) Failure to impose a minimum unsuspended term of imprisonment under
2 subsection 1 will not appreciably impair the effect of subsection 1 in deterring
3 others from violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A; and

4 B. The court finds that the individual's background, attitude and prospects for
5 rehabilitation and the nature of the victim and the offense indicate that imposition of
6 a sentence under subsection 1 would frustrate the general purposes of sentencing set
7 forth in section 1501.

8 If the court imposes a sentence under this subsection, the court shall state in writing or on
9 the record its reasons for its findings and for imposing a sentence under this subsection
10 rather than under subsection 1.

11 **3. Reduced mandatory minimum term of imprisonment.** If the court imposes a
12 sentence under subsection 2, the minimum term of imprisonment, which may not be
13 suspended, is as follows:

14 A. When the sentencing class is Class A, the minimum term of imprisonment is 9
15 months;

16 B. When the sentencing class is Class B, the minimum term of imprisonment is 6
17 months; and

18 C. With the exception of trafficking or furnishing marijuana under section 1105-A or
19 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is
20 3 months.

21 **Sec. B-17. 17-A MRSA §1126** is enacted to read:

22 **§1126. Special sentencing provisions regarding fines for certain drug offenses**

23 **1. Fine based on value of scheduled drugs at time of offense.** As authorized by
24 section 1706, subsection 3, if the State pleads and proves the value at the time of the
25 commission of a crime of a scheduled drug that is the basis for a conviction under section
26 1103, 1105-A, 1105-B, 1105-C, 1105-D, 1106 or 1107-A, the convicted person may be
27 sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State,
28 of that scheduled drug.

29 **2. Mandatory minimum fine barring court finding exceptional circumstances.**
30 In addition to any other authorized sentencing alternative specified in section 1502,
31 subsection 2 for individuals or section 1502, subsection 7 for organizations, the court
32 shall impose a minimum fine of \$400, none of which may be suspended, except as
33 provided in subsection 3, for an individual convicted of a crime under section 1103;
34 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; 1110; 1111;
35 1111-A, subsection 4-A; 1116; 1117; or 1118.

36 **3. Finding by court necessary to impose other than minimum fine.** In the case of
37 an individual, the court may suspend all or a portion of a minimum fine under subsection
38 2 or impose a fine less than the minimum fine specified in subsection 2 if the court finds
39 by a preponderance of the evidence that there are exceptional circumstances that justify

1 imposition of a lesser financial penalty. In making a finding of exceptional
2 circumstances, the court may consider:

3 A. Reliable evidence of financial hardship on the part of the individual and the
4 individual's family and dependents;

5 B. Reliable evidence of special needs of the individual or the individual's family and
6 dependents;

7 C. Reliable evidence of the individual's income and future earning capacity and the
8 individual's assets and financial resources from whatever source;

9 D. Reliable evidence regarding any pecuniary gain derived from the commission of
10 the offense; and

11 E. The impact of imposition of the mandatory fine on the individual's reasonable
12 ability to pay restitution under chapter 69.

13 **Sec. B-18. 29-A MRSA §2412-A, sub-§3**, as amended by PL 2003, c. 673, Pt.
14 TT, §5, is further amended to read:

15 **3. Minimum mandatory sentences for certain suspension.** If the suspension was
16 for OUI or an OUI offense, the court shall impose a minimum fine of \$600, a term of
17 imprisonment of 7 consecutive days and a suspension of license of not less than one year
18 nor more than 3 years consecutive to the original suspension. The penalties may not be
19 suspended except as provided in subsection 3-A.

20 A. If the person has a prior conviction for violating this section within a 10-year
21 period and was subject to the minimum mandatory sentences, then the following
22 minimum penalties, which may not be suspended by the court, apply in the event the
23 suspension was for OUI:

24 (1) A minimum fine of \$1,000, a term of imprisonment of 30 consecutive days
25 and a suspension of license for not less than one year nor more than 3 years
26 consecutive to the original suspension in the event of one prior conviction;

27 (2) A minimum fine of \$2,000, a term of imprisonment of 60 consecutive days
28 and a suspension of license for not less than one year nor more than 3 years
29 consecutive to the original suspension in the event of 2 prior convictions; or

30 (3) A minimum fine of \$3,000, a term of imprisonment of 6 months and a
31 suspension of license for not less than one year nor more than 3 years consecutive
32 to the original suspension in the event of 3 or more prior convictions. The
33 sentencing class for this offense is a Class C ~~crime~~.

34 B. For all other suspensions, the minimum fine for a first offense is \$250, which may
35 not be suspended by the court. The minimum fine for 2nd and subsequent offenses is
36 \$500, which may not be suspended by the court.

37 A separate reading of the allegation and a separate trial are not required under this
38 subsection.

39 **Sec. B-19. 29-A MRSA §2412-A, sub-§3-A** is enacted to read:

1 B. Order that the owner or keeper of the dog, if that person has previously been
2 adjudicated of having violated this section, may not own, possess or have on that
3 person's premises any dogs for a period of time, which may be permanent;

4 C. Order the owner or keeper of the dog, if the owner or keeper is allowed to keep
5 the dog, or any other person keeping the dog, to post dangerous dog signs, visible
6 from all directions and provided by the department, around the entrance of the
7 premises where the dog resides and to notify in writing any service provider that has
8 a reasonable expectation to be on the property that the dog has been determined to be
9 a dangerous dog. The owner or keeper is responsible for the cost of the signs;

10 D. Order the dog confined in a secure enclosure. For the purposes of this paragraph,
11 "secure enclosure" means a fence or structure of at least 6 feet in height forming or
12 making an enclosure suitable to prevent the entry of young children and suitable to
13 confine a dangerous dog in conjunction with other measures that may be taken by the
14 owner or keeper. The secure enclosure must be locked, be designed with secure sides
15 and be designed to prevent the animal from escaping from the enclosure. The
16 enclosure may also be designed with a secure top and bottom if determined necessary
17 by the court. The court shall specify the length of the period of confinement and may
18 order permanent confinement;

19 E. Order that the owner or keeper of a dog confined to a secure enclosure pursuant to
20 paragraph D may not allow the dog outside of the secure enclosure unless:

21 (1) It is necessary to obtain veterinary care for the dog or to comply with orders
22 of the court; and

23 (2) The dog is securely muzzled with a basket-style muzzle, restrained by a leash
24 not more than 3 feet in length with a minimum tensile strength of 300 pounds and
25 under the direct control of the dog owner or keeper;

26 F. Order the dog to be securely muzzled with a basket-style muzzle, restrained by a
27 leash not more than 3 feet in length with a minimum tensile strength of 300 pounds
28 and under the direct control of the dog owner or keeper whenever the dog is off the
29 owner's or keeper's premises;

30 G. Order the dog to be spayed or neutered;

31 H. Order the dog to be microchipped within 60 days of the court order;

32 I. Order the owner or keeper of the dog to obtain a minimum of \$100,000 in liability
33 insurance for the life of the dog;

34 J. Order the owner or keeper of the dog to have the dog evaluated by a certified
35 canine behaviorist or certified dog trainer and to attend dog training classes; and

36 K. Order the owner or keeper of the dog to immediately notify the sheriff, a local law
37 enforcement officer or an animal control officer if the dog escapes.

38 The court may order restitution in accordance with Title 17-A, chapter 54 69 for any
39 damages inflicted upon a person or a person's property by a dog determined to be a
40 dangerous dog under this subsection.

1 **Sec. C-3. 9-B MRSA §466, sub-§11, ¶A**, as amended by PL 2003, c. 452, Pt. D,
2 §1 and affected by Pt. X, §2, is further amended to read:

3 A. A person responsible for an act or omission expressly declared to be a criminal
4 offense by statutes pertaining to the supervision of financial institutions and for
5 which no other penalty has been provided by statute commits a Class E crime, except
6 notwithstanding Title 17-A, section ~~1304~~ 1704, a fine of not more than \$5,000 may
7 be imposed upon ~~a natural person~~ an individual.

8 **Sec. C-4. 10 MRSA §1174, sub-§3, ¶R**, as amended by PL 1995, c. 65, Pt. A,
9 §15 and affected by §153 and Pt. C, §15, is further amended to read:

10 R. To cancel, terminate, fail to renew or refuse to continue any franchise relationship
11 with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or
12 conditions of any agreement or franchise or the terms or provisions of any waiver,
13 without first furnishing notification of the termination to the new motor vehicle
14 dealer as follows:

15 (1) Notification under this paragraph ~~shall~~ must be in writing, ~~shall~~ must be by
16 certified mail or personally delivered to the new motor vehicle dealer and ~~shall~~
17 must contain:

18 (a) A statement of intention to terminate the franchise, cancel the franchise
19 or not to renew the franchise;

20 (b) A statement of the reasons for the termination, cancellation or
21 nonrenewal; and

22 (c) The date on which the termination, cancellation or nonrenewal takes
23 effect;

24 (2) The notice described in this paragraph ~~shall~~ may not be less than 90 days
25 prior to the effective date of the termination, cancellation or nonrenewal; or

26 (3) The notice described in this paragraph ~~shall~~ may not be less than 15 days
27 prior to the effective date of the termination, cancellation or nonrenewal with
28 respect to any of the following:

29 (a) Insolvency of the new motor vehicle dealer, or filing of any petition by or
30 against the new motor vehicle dealer under any bankruptcy or ~~receivership~~
31 receivership law;

32 (b) The business operations of the franchised motor vehicle dealer have been
33 abandoned or closed for 7 consecutive business days unless the closing is due
34 to an act of God, strike or labor difficulty;

35 (c) Conviction of or plea of nolo contendere of a franchised motor vehicle
36 dealer, or one of its principal owners, of any Class A, B or C crime, as
37 defined in the Maine Criminal Code, Title 17-A, in which a sentence of
38 imprisonment of one year or more is imposed under Title 17-A, sections
39 ~~1254~~ 1603 and ~~1252~~ 1604; or

40 (d) Revocation of the franchised motor vehicle dealer's license pursuant to
41 Title 29-A, section 903;

1 **Sec. C-5. 10 MRSA §1243, sub-§3, ¶Q**, as enacted by PL 1997, c. 473, §3, is
2 amended to read:

3 Q. To cancel, terminate, fail to renew or refuse to continue any franchise relationship
4 with a licensed new personal sports mobile dealer, notwithstanding the terms,
5 provisions or conditions of any agreement or franchise or the terms or provisions of
6 any waiver, without first providing notification of the termination, cancellation,
7 nonrenewal or noncontinuance to the new personal sports mobile dealer as follows:

8 (1) Notification under this paragraph must be in writing and must be delivered
9 personally or by certified mail to the new personal sports mobile dealer and must
10 contain:

11 (a) A statement of intention to terminate, cancel, not continue or not renew
12 the franchise;

13 (b) A statement of the reasons for the termination, cancellation,
14 noncontinuance or nonrenewal; and

15 (c) The date on which the termination, cancellation, noncontinuance or
16 nonrenewal takes effect;

17 (2) The notice required in this paragraph may not be given less than 90 days prior
18 to the effective date of the termination, cancellation, noncontinuance or
19 nonrenewal, except as provided in subparagraph (3); or

20 (3) The notice required in this paragraph may not be given less than 15 days prior
21 to the effective date of the termination, cancellation, noncontinuance or
22 nonrenewal with respect to any of the following:

23 (a) Insolvency of the new personal sports mobile dealer or filing of any
24 petition by or against the new personal sports mobile dealer under any
25 bankruptcy or receivership law;

26 (b) The business operations of the personal sports mobile dealer have been
27 abandoned or closed for 14 consecutive business days unless the closing is
28 due to an act of God, strike or labor difficulty; or

29 (c) Conviction of or plea of nolo contendere of a personal sports mobile
30 dealer or one of its principal owners of any Class A, Class B or Class C
31 crime, as defined in Title 17-A, in which a sentence of imprisonment of one
32 year or more is imposed under Title 17-A, sections ~~1251~~ 1603 and ~~1252~~
33 1604; or

34 **Sec. C-6. 10 MRSA §1434, sub-§3, ¶Q**, as enacted by PL 1997, c. 427, §2, is
35 amended to read:

36 Q. To cancel, terminate, fail to renew or refuse to continue any dealership
37 relationship with a licensed new recreational vehicle dealer, notwithstanding the
38 terms, provisions or conditions of any agreement or dealer agreement or the terms or
39 provisions of any waiver, without first providing notification of the termination,
40 cancellation, nonrenewal or noncontinuance to the new recreational vehicle dealer as
41 follows:

1 (1) Notification must be in writing and delivered personally or by certified mail
2 to the new recreational vehicle dealer and contain:

3 (a) A statement of intent to terminate the dealer agreement, cancel the dealer
4 agreement, not continue the dealer agreement or not to renew the dealer
5 agreement;

6 (b) A statement of the reasons for the termination, cancellation,
7 noncontinuance or nonrenewal; and

8 (c) The date on which the termination, cancellation, noncontinuance or
9 nonrenewal takes effect;

10 (2) Notification may not be less than 90 days prior to the effective date of the
11 termination, cancellation, noncontinuance or nonrenewal; or

12 (3) Notification may not be less than 15 days prior to the effective date of the
13 termination, cancellation, noncontinuance or nonrenewal with respect to any of
14 the following:

15 (a) Insolvency of the new recreational vehicle dealer or filing of any petition
16 by or against the new recreational vehicle dealer under any bankruptcy or
17 receivership law;

18 (b) The business operations outlined by the dealer agreement have been
19 abandoned or closed for 14 consecutive business days unless the closing is
20 due to an act of God, a strike or labor difficulty;

21 (c) Conviction of or plea of nolo contendere of a recreational vehicle dealer
22 or one of its principal owners of any Class A, Class B or Class C crime, as
23 defined in Title 17-A, in which a sentence of imprisonment of 60 days or
24 more is imposed under Title 17-A, sections ~~1251~~ 1603 and ~~1252~~ 1604;

25 (d) Revocation of the recreational vehicle dealer's license pursuant to Title
26 29-A, section 903; or

27 (e) A determination that there was a material fraudulent misrepresentation by
28 the dealer to the manufacturer, distributor or wholesaler; or

29 **Sec. C-7. 10 MRSA §1434-A, sub-§2, ¶B**, as enacted by PL 2009, c. 562, §18,
30 is amended to read:

31 B. The notice period under this subsection may be reduced to not less than 30 days'
32 prior written notice of termination, cancellation or nonrenewal if good cause exists.
33 Good cause exists for purposes of this paragraph when:

34 (1) A dealer or one of its owners is convicted of or enters a plea of nolo
35 contendere to murder or a Class A, Class B or Class C crime for which a sentence
36 of imprisonment of one year or more is imposed under Title 17-A, section ~~1251~~
37 1603 or ~~1252~~ 1604;

38 (2) A dealer abandons or closes the dealer's business operations for 10
39 consecutive business days unless the closing is due to an act of God, strike, labor
40 difficulty or other cause over which the dealer has no control;

- 1 (3) There is a significant misrepresentation by the dealer materially affecting the
2 business relationship between the dealer and the manufacturer or distributor;
- 3 (4) The dealer's license has been suspended or revoked or has not been renewed;
- 4 (5) There is a declaration by the dealer of bankruptcy or insolvency or the
5 occurrence of an assignment for the benefit of creditors or bankruptcy; or
- 6 (6) A dealer fails to notify in writing the manufacturer or distributor at least 30
7 days prior to entering into a dealer agreement with a manufacturer or distributor
8 of a competing, similar line make.

9 The notice requirements of this paragraph do not apply if the reason for termination,
10 cancellation or nonrenewal is the dealer's insolvency, the occurrence of an
11 assignment for the benefit of creditors or the dealer's bankruptcy.

12 **Sec. C-8. 10 MRSA §1434-A, sub-§3, ¶C**, as enacted by PL 2009, c. 562, §18,
13 is amended to read:

14 C. For purposes of this subsection, good cause for termination, cancellation or
15 nonrenewal exists when:

- 16 (1) A manufacturer or distributor is convicted of, or enters a plea of nolo
17 contendere to, murder or a Class A, Class B or Class C crime for which a
18 sentence of imprisonment of one year or more is imposed under Title 17-A,
19 section ~~1251~~ 1603 or ~~1252~~ 1604;
- 20 (2) The business operations of the manufacturer or distributor have been
21 abandoned or closed for 10 consecutive business days, unless the closing is due
22 to an act of God, strike, labor difficulty or other cause over which the
23 manufacturer or distributor has no control;
- 24 (3) There is a significant misrepresentation by the manufacturer or distributor
25 materially affecting the business relationship between the dealer and the
26 manufacturer or distributor; or
- 27 (4) There is a declaration by the manufacturer or distributor of bankruptcy or
28 insolvency or the occurrence of an assignment for the benefit of creditors or
29 bankruptcy.

30 **Sec. C-9. 12 MRSA §6004, last ¶**, as amended by PL 2005, c. 507, §1, is further
31 amended to read:

32 Any period of confinement must be served concurrently with any other period of
33 confinement previously imposed and not fully discharged or imposed on the same date.
34 Any period of confinement is subject to Title 17-A, section ~~1253~~, ~~subsection 2~~ 2305,
35 except that a statement is not required to be furnished and the day-for-day deduction must
36 be determined by the facility, but is not subject to Title 17-A, section 1253, subsection 2,
37 paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10 2305, subsection 4; section 2307,
38 subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection 2; or section
39 2310, subsections 3, 6 and 7. If the court suspends the period of confinement in whole or
40 in part, the court shall impose a period of administrative release not to exceed one year.
41 The administrative release must be administered pursuant to Title 17-A, chapter ~~54-G~~ 67.

1 subchapter 2, and revocation of the administrative release is governed by the provisions
2 of that ~~chapter~~ subchapter.

3 **Sec. C-10. 12 MRSA §6073, sub-§3**, as amended by PL 1995, c. 157, §1, is
4 further amended to read:

5 **3. Penalty.** Any person who violates subsection 2-A or who knowingly and
6 willfully violates subsection 2 is guilty of a Class D crime, except that, notwithstanding
7 Title 17-A, sections 4-A ~~and 1304~~, 1704 and 1705, the court shall impose a fine of not
8 less than \$1,000 and restitution may be ordered made to the owner of the lease in an
9 amount set by the court pursuant to Title 17-A, chapter 69.

10 **Sec. C-11. 12 MRSA §6432, sub-§5**, as amended by PL 2013, c. 468, §18, is
11 further amended to read:

12 **5. Penalty for possession.** Possession of lobsters other than caught by the method
13 specified in subsection 1 is a Class D crime, except that in addition to any punishment
14 that may be imposed under Title 17-A, Part 3 6, the court shall impose a fine of \$500 for
15 each violation and, in addition, a fine of \$100 for each lobster involved, up to and
16 including the first 5, and a fine of \$200 for each lobster in excess of 5, or, if the number
17 of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000.

18 **Sec. C-12. 12 MRSA §6436, sub-§5**, as amended by PL 2013, c. 468, §19, is
19 further amended to read:

20 **5. Penalty for possession of egg-bearing lobsters.** Possession of lobsters in
21 violation of subsection 1, paragraph A is a Class D crime, except that in addition to any
22 punishment that may be imposed under Title 17-A, Part 3 6, the court shall impose a fine
23 of \$1,000 for each violation and, in addition, a fine of \$200 for each lobster involved, up
24 to and including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the
25 number of lobsters cannot be determined, a fine of not less than \$2,500 or more than
26 \$10,000.

27 **Sec. C-13. 12 MRSA §6436, sub-§6**, as amended by PL 2013, c. 468, §20, is
28 further amended to read:

29 **6. Penalty for possession of v-notched lobsters.** Possession of lobsters in violation
30 of subsection 1, paragraph B is a Class D crime, except that in addition to any punishment
31 that may be imposed under Title 17-A, Part 3 6, the court shall impose a fine of \$500 for
32 each violation and, in addition, a fine of \$100 for each lobster involved, up to and
33 including the first 5, and a fine of \$400 for each lobster in excess of 5, or, if the number
34 of lobsters cannot be determined, a fine of not less than \$1,000 or more than \$5,000.

35 **Sec. C-14. 12 MRSA §6952-A, sub-§4**, as amended by PL 2013, c. 468, §42, is
36 further amended to read:

37 **4. Penalty for possession.** A violation of this section is a Class D crime, except that
38 in addition to any punishment that may be imposed under Title 17-A, Part 3 6, the court
39 shall impose a fine of \$500 for each violation and, in addition, a fine of \$100 for each

1 lobster involved, up to and including the first 5, and a fine of \$200 for each lobster in
2 excess of 5, or, if the number of lobsters cannot be determined, a fine of not less than
3 \$1,000 or more than \$5,000.

4 **Sec. C-15. 12 MRSA §6957, sub-§2**, as amended by PL 1995, c. 169, §2, is
5 further amended to read:

6 **2. Penalty.** A violation of subsection 1 is a Class D crime, ~~except that,~~
7 ~~notwithstanding Title 17-A, section 1301.~~ In addition to any other authorized sentencing
8 alternative, the court shall impose a minimum fine of \$1,000 that may not be suspended.

9 **Sec. C-16. 12 MRSA §8004, last ¶**, as amended by PL 2005, c. 507, §2, is
10 further amended to read:

11 Any period of confinement must be served concurrently with any other period of
12 confinement previously imposed and not fully discharged or imposed on the same date.
13 Any period of confinement is subject to Title 17-A, section ~~1253, subsection 2~~ 2305,
14 except that a statement is not required to be furnished and the day-for-day deduction must
15 be determined by the facility, but is not subject to Title 17-A, section 1253, subsection 2,
16 paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10 2305, subsection 4; section 2307,
17 subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection 2; or section
18 2310, subsections 3, 6 and 7. If the court suspends the period of confinement in whole or
19 in part, the court shall impose a period of administrative release not to exceed one year.
20 The administrative release must be administered pursuant to Title 17-A, chapter ~~54-G~~ 67,
21 subchapter 2, and revocation of the administrative release is governed by the provisions
22 of that ~~chapter~~ subchapter.

23 **Sec. C-17. 12 MRSA §9321, sub-§6**, as amended by PL 2003, c. 556, §1, is
24 further amended to read:

25 **6. Penalty.** Notwithstanding section 9701, any person who engages in out-of-door
26 burning in violation of this article, or who fails to comply with any stated permit
27 condition or restriction, commits a Class E crime. In addition, if the State proves that
28 while in violation that person's out-of-door fire resulted in fire suppression costs to
29 municipal or State Government, the court, as part of any sentence imposed, may order
30 restitution, pursuant to Title 17-A, chapter ~~54~~ 69, to be paid to the government entities
31 incurring the suppression costs. For each violation of this article:

32 A. The monetary award for restitution to a municipality may not exceed \$25,000;
33 and

34 B. The total combined monetary award for restitution to municipalities and State
35 Government may not exceed \$125,000.

36 When bringing an action under this article, the State shall, to the fullest extent permitted
37 by law, seek restitution of fire suppression costs incurred by state governmental entities
38 relating to the violation.

39 **Sec. C-18. 12 MRSA §9601, sub-§1**, as amended by PL 1991, c. 528, Pt. E, §11
40 and affected by Pt. RRR and amended by c. 591, Pt. E, §11, is further amended to read:

1 **1. Illegal operation.** A person is guilty of illegal operation of power-driven
2 equipment if that person knowingly:

3 A. Operates power-driven equipment in, through or within 1,000 feet of forest lands
4 without an approved spark arrester;

5 B. Requires the operation of power-driven equipment in, through or within 1,000
6 feet of forest lands without an approved spark arrester; or

7 C. Permits the operation of power-driven equipment owned by that person in,
8 through or within 1,000 feet of forest lands without an approved spark arrester.

9 For the purposes of this section, "power-driven equipment" means vehicles, tools or other
10 equipment with an internal combustion engine, but does not include boat motors.

11 Notwithstanding section 9701, any person who violates this subsection commits a Class E
12 crime. In addition, if the State proves that while in violation of this section fires resulting
13 from that person's power-driven equipment resulted in fire suppression costs to municipal
14 or State Government, the court, as part of any sentence imposed, may, pursuant to Title
15 17-A, chapter ~~54~~ 69, order restitution to be paid to the government entities incurring the
16 suppression costs in an amount not to exceed the limitations established in section 9321.

17 **Sec. C-19. 12 MRSA §10608, last ¶**, as amended by PL 2005, c. 507, §3, is
18 further amended to read:

19 Any period of confinement must be served concurrently with any other period of
20 confinement previously imposed and not fully discharged or imposed on the same date.
21 Any period of confinement is subject to Title 17-A, section ~~1253~~, ~~subsection 2~~ 2305,
22 except that a statement is not required to be furnished and the day-for-day deduction must
23 be determined by the facility, but is not subject to Title 17-A, section 1253, subsection 2,
24 paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10 2305, subsection 4; section 2307,
25 subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection 2; or section
26 2310, subsections 3, 6 and 7. If the court suspends the period of confinement in whole or
27 in part, the court shall impose a period of administrative release not to exceed one year.
28 The administrative release must be administered pursuant to Title 17-A, chapter ~~54-G~~ 67,
29 subchapter 2, and revocation of the administrative release is governed by the provisions
30 of that ~~chapter~~ subchapter.

31 **Sec. C-20. 12 MRSA §12509, sub-§1**, as affected by PL 2003, c. 614, §9 and
32 amended by c. 655, Pt. B, §256 and affected by §422, is further amended to read:

33 **1. Permit required.** Except as otherwise authorized pursuant to this Part, a person
34 may not introduce, import or transport any live fish or gametes into the State or receive or
35 have in that person's possession fish or gametes so introduced, imported or transported
36 without a valid permit issued under this section.

37 A person who violates this subsection commits a Class E crime, except that,
38 notwithstanding Title 17-A, section ~~1304~~ 1704, the fine may not be less than \$1,000 nor
39 more than \$10,000.

1 **Sec. C-21. 12 MRSA §12510, sub-§1**, as enacted by PL 2003, c. 414, Pt. A, §2
2 and affected by c. 614, §9, is amended to read:

3 **1. Permit required.** Except as otherwise authorized pursuant to this Part, a person
4 may not introduce fish of any kind into any inland waters without a valid permit issued
5 under this section. A person who violates this subsection commits a Class E crime,
6 except that, notwithstanding Title 17-A, section ~~1304~~ 1704, the fine may not be less than
7 \$1,000 or more than \$10,000.

8 **Sec. C-22. 12 MRSA §12511, sub-§1**, as enacted by PL 2003, c. 655, Pt. B,
9 §257 and affected by §422, is amended to read:

10 **1. Permit required.** Except as otherwise authorized pursuant to this Part, a person
11 may not introduce fish or fish spawn into a private pond without a valid permit issued
12 under this section. A person who violates this subsection commits a Class E crime,
13 except that, notwithstanding Title 17-A, section ~~1304~~ 1704, the fine may not be less than
14 \$1,000 nor more than \$10,000.

15 **Sec. C-23. 12 MRSA §12512, sub-§1**, as enacted by PL 2003, c. 655, Pt. B,
16 §257 and affected by §422, is amended to read:

17 **1. Permit required.** Except as otherwise authorized pursuant to this Part, a person
18 may not take and transport within the limits of the State fish taken in the State for
19 breeding or advertising purposes without a valid permit issued under this section. A
20 person who violates this subsection commits a Class E crime, except that,
21 notwithstanding Title 17-A, section ~~1304~~ 1704, the fine may not be less than \$1,000 nor
22 more than \$10,000.

23 **Sec. C-24. 12 MRSA §13157-A, sub-§25, ¶B**, as enacted by PL 2005, c. 397,
24 Pt. E, §26, is amended to read:

25 B. The following penalties apply to violations of this subsection.

26 (1) A person who violates this subsection commits a civil violation for which a
27 fine of not less than \$100 or more than \$500 may be adjudged.

28 (2) A person who violates this subsection after having been adjudicated as
29 having committed 3 or more civil violations under this Part within the previous 5-
30 year period commits a Class E crime.

31 (3) In addition to any penalties imposed under this subsection, the court may,
32 subject to section 9321 and Title 17-A, chapter ~~54~~ 69, order restitution for fire
33 suppression costs incurred by state or municipal government entities in
34 suppressing a fire caused by an ATV operating without a working spark arrester.

35 **Sec. C-25. 13 MRSA §1035**, as amended by PL 2007, c. 112, §1, is further
36 amended to read:

1 **§1035. Penalties**

2 Except as otherwise provided in this chapter, a person who fails to comply with or
3 violates any of the provisions of this chapter in respect to the establishment, maintenance
4 or operation of a cemetery, community mausoleum, crematory or columbarium or to the
5 disposal of dead human bodies commits a Class E crime except that, notwithstanding
6 Title 17-A, ~~section 1301~~ sections 1704 and 1705, the fine may not be less than \$100 or
7 more than \$500.

8 **Sec. C-26. 14 MRSA §158-B, sub-§1**, as amended by PL 2007, c. 275, §1, is
9 further amended to read:

10 **1. Liability limited.** A charitable organization or other entity approved pursuant to
11 Title 15, section 3301 or 3314 or pursuant to Title 17-A, section ~~1345~~ 2031 is not liable
12 for a claim arising from death or injury to a person or damage to property caused by a
13 juvenile or adult participating in a supervised work or service program, performing
14 community service or providing restitution under Title 15, section 3301 or 3314 or under
15 Title 17-A, section ~~1345~~ 2031, including a claim arising from death or injury to the
16 juvenile or adult or damage to the adult's or juvenile's property.

17 **Sec. C-27. 14 MRSA §752-E, sub-§§1 and 2**, as enacted by PL 1997, c. 320,
18 §1, are amended to read:

19 **1. Limitation period.** Actions based upon a criminal offense in which, as that
20 offense is defined, there is a victim, as defined in Title 17-A, section ~~1171~~ 2101,
21 subsection 2, brought by or on behalf of a victim against the offender must be
22 commenced within the limitation period otherwise provided or within 3 years of the time
23 the victim discovers or reasonably should have discovered any profits from the crime,
24 whichever occurs later.

25 **2. Notice to victims.** A person or organization that knowingly pays or agrees to pay
26 any profits from a criminal offense in which, as that offense is defined, there is a victim
27 to a person charged with or convicted of that crime shall make reasonable efforts to notify
28 every victim, as defined in Title 17-A, section ~~1171~~ 2101, subsection 2, of the payment or
29 agreement to pay as soon as practicable after discovering that the payment or intended
30 payment constitutes profits from the crime. Reasonable efforts must include, but are not
31 limited to, seeking information about victims from court records and the prosecuting
32 attorney and mailing notice by certified mail to victims whose address is known and
33 publishing, at least once every 6 months for 3 years, in newspapers of general circulation
34 in the area where the crime occurred a legal notice to unknown victims or victims whose
35 address is unknown.

36 **Sec. C-28. 14 MRSA §5602**, as enacted by PL 2001, c. 421, Pt. A, §1 and
37 affected by Pt. C, §1, is amended to read:

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§5602. Restitution

The court may order a person adjudicated as having committed a civil violation to pay restitution as part of the judgment. Title 17-A, chapter 54 ~~69~~ applies to the determination, ordering, payment and enforcement of an order of restitution.

Sec. C-29. 15 MRSA §224-A, sub-§2, as amended by PL 2015, c. 431, §5, is further amended to read:

2. Funding. The Extradition and Prosecution Expenses Account in each prosecutorial district is funded by bail forfeited to and recovered by the State pursuant to the Maine Rules of Unified Criminal Procedure, Rule 46. Whenever bail is so forfeited and recovered by the State and if it is not payable as restitution pursuant to Title 17-A, section ~~4329~~ 2015, subsection ~~3-A~~ 4, the district attorney shall determine whether it or a portion of it is deposited in the Extradition and Prosecution Expenses Account for that district attorney's prosecutorial district, but in no event may the account exceed \$30,000. Any bail so forfeited and recovered and not deposited in the Extradition and Prosecution Expenses Account must be deposited in the General Fund. Any unexpended balance in the Extradition and Prosecution Expenses Account of a prosecutorial district established by this section may not lapse but must be carried forward into the next year.

Sec. C-30. 15 MRSA §812, sub-§2, as amended by PL 2007, c. 475, §4, is further amended to read:

2. Notification to victims and law enforcement officers. Whenever practicable, before submitting a negotiated plea to the court, the attorney for the State shall make a good faith effort to inform the relevant law enforcement officers of the details of the plea agreement reached in any prosecution where the defendant was originally charged with murder, a Class A, B or C crime or a violation of Title 17-A, chapter 9, 11, 12 or 13 and, with respect to victims, shall comply with Title 17-A, section ~~4472~~ 2102, subsection 1, paragraphs A and B relative to informing victims of the details of and their right to comment on a plea agreement.

Sec. C-31. 15 MRSA §1004, as amended by PL 2015, c. 431, §11, is further amended to read:

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229, post-conviction review proceedings under sections 2121 to 2132, probation revocation proceedings under Title 17-A, sections ~~1205 to 1208~~ 1809 to 1814, supervised release revocation proceedings under Title 17-A, section ~~1233~~ 1883 or administrative release revocation proceedings under Title 17-A, sections ~~1349 to 1349-F~~ 1851 to 1857, except to the extent and under the conditions stated in those sections. 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 Civil Procedure, Rule 66 and to the setting of

1 bail relative to a material witness only as specified in sections 1103 and 1104,
2 respectively. This chapter does not apply to a person arrested for a juvenile crime as
3 defined in section 3103 or a person under 18 years of age who is arrested for a crime
4 defined under Title 12 or Title 29-A that is not a juvenile crime as defined in section
5 3103.

6 **Sec. C-32. 15 MRSA §1023, sub-§4, ¶B-1**, as enacted by PL 2011, c. 640, Pt.
7 A, §1, is amended to read:

8 B-1. Set preconviction bail for a defendant alleged to have committed any of the
9 following offenses against a family or household member as defined in Title 19-A,
10 section 4002, subsection 4:

11 (1) A violation of a protection from abuse order provision set forth in Title 19-A,
12 section 4006, subsection 5, paragraph A, B, C, D, E or F or Title 19-A, section
13 4007, subsection 1, paragraph A, A-1, A-2, B, C, D, E or G;

14 (2) Any Class A, B or C crime under Title 17-A, chapter 9;

15 (3) Any Class A, B or C sexual assault offense under Title 17-A, chapter 11;

16 (4) Kidnapping under Title 17-A, section 301;

17 (5) Criminal restraint under Title 17-A, section 302, subsection 1, paragraph A,
18 subparagraph (4) or Title 17-A, section 302, subsection 1, paragraph B,
19 subparagraph (2);

20 (6) Domestic violence stalking that is a Class C crime under Title 17-A, section
21 210-C, subsection 1, paragraph B;

22 (7) Domestic violence criminal threatening that is a Class C crime under Title
23 17-A, section 209-A, subsection 1, paragraph B or domestic violence criminal
24 threatening that is elevated to a Class C crime by the use of a dangerous weapon
25 under Title 17-A, section ~~1252~~ 1604, subsection ~~4~~ 5, paragraph A;

26 (8) Domestic violence terrorizing that is a Class C crime under Title 17-A,
27 section 210-B, subsection 1, paragraph B or domestic violence terrorizing that is
28 elevated to a Class C crime by the use of a dangerous weapon under Title 17-A,
29 section ~~1252~~ 1604, subsection ~~4~~ 5, paragraph A; or

30 (9) Domestic violence reckless conduct that is a Class C crime under Title 17-A,
31 section 211-A, subsection 1, paragraph B or domestic violence reckless conduct
32 that is elevated to a Class C crime by the use of a dangerous weapon under Title
33 17-A, section ~~1252~~ 1604, subsection ~~4~~ 5, paragraph A;

34 **Sec. C-33. 15 MRSA §1094, first ¶**, as amended by PL 2007, c. 31, §2, is further
35 amended to read:

36 When a defendant who has been admitted to either preconviction or post-conviction
37 bail in a criminal case fails to appear as required or has violated the conditions of release,
38 the court shall declare a forfeiture of the bail. The obligation of the defendant and any
39 sureties may be enforced in such manner as the Supreme Judicial Court shall by rule
40 provide and in accordance with section 224-A and Title 17-A, section ~~1329~~ 2015,

1 subsection ~~3-A~~ 4. The rules adopted by the Supreme Judicial Court must provide for
2 notice to the defendant and any sureties of the consequences of failure to comply with the
3 conditions of bail.

4 **Sec. C-34. 15 MRSA §1094, sub-§2-A**, as enacted by PL 2017, c. 221, §1, is
5 amended to read:

6 **2-A. Violation of unsecured preconviction bail.** If the court determines that an
7 offender has violated unsecured preconviction bail and that the violation is not excused,
8 the court shall enter an order of forfeiture of bail, which may not exceed the amount of
9 the unsecured bail previously set. The attorney for the State may take action to collect
10 the amount forfeited using measures authorized for the collection of unpaid restitution
11 under Title 17-A, section ~~1326-A~~ 2006, including, but not limited to, entering into
12 agreements with the offender for payment over a set period of time not to exceed one
13 year. In order to satisfy an order of forfeiture entered under this subsection, pursuant to
14 Title 36, section 5276-A, the State Tax Assessor may withhold tax refunds owed to an
15 offender.

16 **Sec. C-35. 15 MRSA §1105**, as amended by PL 2017, c. 407, Pt. A, §53, is
17 further amended to read:

18 **§1105. Substance use disorder treatment program**

19 As a condition of post-conviction release, the court may impose the condition of
20 participation in a substance use disorder treatment program for a period not to exceed 24
21 months pursuant to Title 4, chapter 8. Upon request of the Department of Corrections,
22 the court may require the defendant to pay a substance use testing fee as a requirement of
23 participation in the substance use disorder treatment program. If at any time the court
24 finds probable cause that a defendant released with a condition of participation in a
25 substance use disorder treatment program has intentionally or knowingly violated any
26 requirement of the defendant's participation in the substance use disorder treatment
27 program, the court may suspend the order of bail for a period of up to 7 days for any such
28 violation. The defendant must be given an opportunity to personally address the court
29 prior to the suspension of an order of bail under this section. A period of suspension of
30 bail is a period of detention under Title 17-A, section ~~1253, subsection 2~~ 2305. This
31 section does not restrict the ability of the court to take actions other than suspension of
32 the order of bail for the violation of a condition of participation in a substance use
33 disorder treatment program or the ability of the court to entertain a motion to revoke bail
34 under section 1098 and enter any dispositional order allowed under section 1099-A. If
35 the court orders participation in a substance use disorder treatment program under this
36 section, upon sentencing the court shall consider whether there has been compliance with
37 the program.

38 **Sec. C-36. 15 MRSA §1707**, as repealed and replaced by PL 1987, c. 616, is
39 amended to read:

1 **§1707. Record to designated facility**

2 Whenever a person is convicted of a crime and sentenced to a term of imprisonment
3 which ~~that~~ is to be served in the custody of the Department of Corrections, the clerk of
4 the court shall make and forward to the head of the correctional facility designated as the
5 initial place of confinement by the Commissioner of Corrections pursuant to Title 17-A,
6 section ~~4258~~ 2304, a record containing copies of the docket entries and charging
7 instrument, together with a statement of any fact or facts ~~which that~~ the presiding justice
8 may ~~deem~~ determine to be important or necessary for a full comprehension of the case.
9 This record shall must be delivered to the head of the designated correctional facility
10 within 10 days of the date the prisoner is received at that facility. At the time a person, so
11 sentenced, is delivered to the designated correctional facility, a copy of the judgment and
12 commitment shall must be given to the receiving officer at that facility.

13 **Sec. C-37. 15 MRSA §2121, sub-§2**, as amended by PL 2017, c. 148, §2, is
14 further amended to read:

15 **2. Post-sentencing proceeding.** "Post-sentencing proceeding" means a court
16 proceeding or administrative action occurring during the course of and pursuant to the
17 operation of a sentence that affects whether there is incarceration or its length, including
18 revocation of parole, failure to grant parole, an error of law in the computation of a
19 sentence including administrative calculations of deductions relative to time detained
20 pursuant to Title 17-A, section ~~4253~~, ~~subsection 2~~ 2305 and default in payment of a fine
21 or restitution. It does not include the following Title 17-A, Part ~~3~~ 6 court proceedings:
22 revocation of probation, revocation of supervised release for sex offenders or revocation
23 of administrative release. It does not include the following administrative actions:
24 calculations of ~~good time and meritorious good time credits~~ deductions pursuant to Title
25 17-A, section ~~4253~~, ~~subsections 3, 3-B, 4, 5 and 7~~ or ~~similar deductions under Title 17-A,~~
26 ~~section 4253, subsections 8, 9 and 10~~ 2307, subsections 2, 3 and 4; section 2308,
27 ~~subsection 2; section 2309, subsection 2; section 2310, subsections 3, 6 and 7; and section~~
28 2311; disciplinary proceedings resulting in a withdrawal of good time credits or similar
29 ~~deductions under Title 17-A, section 4253, subsections 6, 8, 9 and 10~~ 2307, subsection 5;
30 ~~section 2308, subsection 3; section 2309, subsection 3; section 2310, subsection 4; and~~
31 ~~section 2311; cancellation of furlough or other rehabilitative programs authorized under~~
32 Title 30-A, sections 1556, 1605 and 1606 or Title 34-A, section 3035; cancellation of a
33 supervised community confinement program granted pursuant to Title 34-A, section
34 3036-A; cancellation of a community confinement monitoring program granted pursuant
35 to Title 30-A, section 1659-A; or cancellation of placement on community reintegration
36 status granted pursuant to Title 34-A, section 3810 or former section 4112.

37 **Sec. C-38. 15 MRSA §2124, sub-§1, ¶C-1**, as enacted by PL 2011, c. 601, §7,
38 is amended to read:

39 C-1. Incarceration imposed by the challenged criminal judgment that is wholly
40 satisfied at the time of sentence imposition due to detention time credits earned under
41 Title 17-A, section ~~4253~~, ~~subsection 2~~ 2305;

42 **Sec. C-39. 15 MRSA §2124, sub-§1, ¶E**, as amended by PL 2011, c. 601, §7, is
43 further amended to read:

1 E. A fine imposed by the challenged criminal judgment that has not been paid and in
2 a case when a person has not inexcusably violated Title 17-A, section ~~1303-B~~ 1710 or
3 inexcusably defaulted in payment of any portion. A fine includes any imposed
4 monetary fees, surcharges and assessments, however designated;

5 **Sec. C-40. 15 MRSA §2124, sub-§1, ¶F**, as amended by PL 2013, c. 266, §2, is
6 further amended to read:

7 F. Restitution imposed by the challenged criminal judgment that has not been paid
8 and in a case when a person has not inexcusably violated Title 17-A, section ~~1328-A~~
9 2014 or inexcusably defaulted in payment of any portion. Any challenge as to the
10 amount of restitution ordered is further limited by Title 17-A, section ~~1330-A~~ 2017;

11 **Sec. C-41. 15 MRSA §2137, sub-§1**, as enacted by PL 2005, c. 659, §1 and
12 affected by §6, is amended to read:

13 **1. Motion.** A person who has been convicted of and sentenced for a crime under the
14 laws of this State that carries the potential punishment of imprisonment of at least one
15 year and for which the person is in actual execution of either a pre-Maine Criminal Code
16 sentence of imprisonment, including parole, or a sentencing alternative pursuant to Title
17 17-A, section ~~1152~~ 1502, subsection 2 that includes a term of imprisonment or is subject
18 to a sentence of imprisonment that is to be served in the future because another sentence
19 must be served first may file a written postjudgment of conviction motion in the
20 underlying criminal proceeding moving the court to order DNA analysis of evidence in
21 the control or possession of the State that is related to the underlying investigation or
22 prosecution that led to the person's conviction and a new trial based on the results of that
23 analysis as authorized by this chapter. For criminal proceedings in which DNA testing
24 was conducted before September 1, 2006, the person may file a written postjudgment of
25 conviction motion in the underlying criminal proceeding moving the court for a new trial
26 based on the results of the DNA testing already conducted using the standard set forth in
27 this chapter if the DNA test results show that the person is not the source of the evidence.

28 **Sec. C-42. 15 MRSA §2151, sub-§3**, as enacted by PL 1999, c. 731, Pt. ZZZ,
29 §24 and affected by §42, is amended to read:

30 **3. Restitution.** As limited by Title 17-A, section ~~1330-A~~ 2017.

31 **Sec. C-43. 15 MRSA §2252, sub-§4**, as enacted by PL 2015, c. 354, §1, is
32 amended to read:

33 **4. Other state convictions.** The eligible criminal conviction is the only criminal
34 conviction of the person in this State, and the person has not had a criminal charge
35 dismissed as a result of a deferred disposition pursuant to Title 17-A, chapter ~~54-F~~ 67,
36 subchapter 4 and has not been adjudicated as having committed a juvenile crime for
37 which the hearing was open to the general public under section 3307;

38 **Sec. C-44. 15 MRSA §3007**, as enacted by PL 1999, c. 280, §1, is amended to
39 read:

1 **§3007. Victims' rights**

2 In addition to any rights given to victims of juvenile crimes in this Part, the victim of
3 a juvenile crime has the rights that a victim has under Title 17-A, section ~~1175~~ 2106.

4 **Sec. C-45. 15 MRSA §3312, sub-§1**, as amended by PL 1995, c. 253, §3, is
5 further amended to read:

6 **1. Evidence of proper disposition.** After making an order of adjudication, the court
7 shall hear evidence on the question of the proper disposition best serving the interests of
8 the juvenile and the public. Such evidence must include, but is not necessarily limited to,
9 the social study and written report, if ordered prepared under section 3311, subsection 3,
10 and other reports as provided in section 3311, subsection 1. Any person who would be
11 entitled to address the court pursuant to Title 17-A, section ~~1257~~ 2104 if the conduct for
12 which the juvenile has been adjudicated had been committed by an adult, as provided in
13 that section, must be accorded notice of the dispositional hearing and the right to address
14 the court. The Maine Rules of Evidence do not apply in dispositional hearings.

15 **Sec. C-46. 15 MRSA §3314, sub-§1, ¶E**, as corrected by RR 2009, c. 2, §35, is
16 amended to read:

17 E. The court may require the juvenile to make restitution for any damage to the
18 victim or other authorized claimant as compensation for economic loss upon
19 reasonable conditions that the court determines appropriate. For the purposes of this
20 paragraph, the provisions of Title 17-A, chapter ~~54~~ 69 apply, except that section ~~1329~~
21 2015 does not apply. Enforcement of a restitution order is available pursuant to
22 subsection 7. If the restitution was a condition of probation, the attorney for the State
23 may, with written consent of the juvenile community corrections officer, file a
24 motion to revoke probation.

25 **Sec. C-47. 15 MRSA §3314, sub-§1, ¶G**, as amended by PL 2017, c. 377, §2, is
26 further amended to read:

27 G. Except for a violation of section 3103, subsection 1, paragraph H, the court may
28 impose a fine, subject to Title 17-A, sections ~~1301~~ 1701 to ~~1304~~ 1711, except that
29 there is no mandatory minimum fine amount. For the purpose of this section, juvenile
30 offenses defined in section 3103, subsection 1, paragraphs B and C are subject to a
31 fine of up to \$1,000.

32 **Sec. C-48. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 2007, c. 96, §5, is
33 further amended to read:

34 H. The court may order the juvenile to serve a period of confinement that may not
35 exceed 30 days, with or without an underlying suspended disposition of commitment
36 to a Department of Corrections juvenile correctional facility, which confinement must
37 be served concurrently with any other period of confinement previously imposed and
38 not fully discharged or imposed on the same date but may be served intermittently as
39 the court may order and must be ordered served in a facility approved or operated by
40 the Department of Corrections exclusively for juveniles. The court may order such a
41 disposition to be served as a part of and with a period of probation that is subject to

1 such provisions of Title 17-A, section ~~1204~~ 1807 as the court may order and that
2 must be administered pursuant to Title 34-A, chapter 5, subchapter 4. Revocation of
3 probation is governed by the procedure contained in subsection 2. Any disposition
4 under this paragraph is subject to Title 17-A, section ~~1253, subsection 2~~ 2305 except
5 that a statement is not required to be furnished and the day-for-day deduction must be
6 determined by the facility, but is not subject to Title 17-A, section ~~1253, subsection 2,~~
7 ~~paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10~~ 2305, subsection 4; section 2307,
8 subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection 2; or
9 section 2310, subsections 3, 6 and 7. For purposes of calculating the commencement
10 of the period of confinement, credit is accorded only for the portion of the first day
11 for which the juvenile is actually confined; the juvenile may not be released until the
12 juvenile has served the full term of hours or days imposed by the court. When a
13 juvenile is committed for a period of confinement, the court shall determine whether
14 reasonable efforts have been made to prevent or eliminate the need for removal of the
15 juvenile from the juvenile's home or that reasonable efforts are not necessary because
16 of the existence of an aggravating factor as defined in Title 22, section 4002,
17 subsection 1-B and whether continuation in the juvenile's home would be contrary to
18 the welfare of the juvenile. This determination does not affect whether the court
19 orders a period of confinement.

20 **Sec. C-49. 15 MRSA §3314, sub-§2,** as amended by PL 2007, c. 695, Pt. A, §19,
21 is further amended to read:

22 **2. Suspended disposition.** The court may impose any of the dispositional
23 alternatives provided in subsection 1 and may suspend its disposition and place the
24 juvenile on a specified period of probation that is subject to such provisions of Title 17-A,
25 section ~~1204~~ 1807 as the court may order and that is administered pursuant to the
26 provisions of Title 34-A, chapter 5, subchapter 4, except that the court may not impose
27 the condition set out in Title 17-A, section ~~1204~~ 1807, subsection ~~4-A~~ 5. The court may
28 impose as a condition of probation that a juvenile must reside outside the juvenile's home
29 in a setting satisfactory to the juvenile community corrections officer if the court
30 determines that reasonable efforts have been made to prevent or eliminate the need for
31 removal of the juvenile from the juvenile's home or that no reasonable efforts are
32 necessary because of the existence of an aggravating factor as defined in Title 22, section
33 4002, subsection 1-B, and that continuation in the juvenile's home would be contrary to
34 the welfare of the juvenile. Imposition of such a condition does not affect the legal
35 custody of the juvenile.

36 Modification of probation is governed by the procedures contained in Title 17-A, section
37 ~~1202, subsection 2~~ 1804, subsections 7 and 8. Termination of probation is governed by
38 the procedures contained in Title 17-A, section ~~1202~~ 1804, subsection ~~3~~ 10. Revocation
39 of probation is governed by the procedures contained in Title 17-A, sections ~~1205,~~
40 ~~1205-B, 1205-C and 1206~~ 1809 to 1812, except that this subsection governs the court's
41 determinations concerning probable cause and continued detention and those provisions
42 of Title 17-A, section ~~1206~~ 1812, subsection ~~7-A~~ 6 allowing a vacating of part of the
43 suspension of execution apply only to a suspended fine under subsection 1, paragraph G
44 or a suspended period of confinement under paragraph H. A suspended commitment
45 under subsection 1, paragraph F may be modified to a disposition under subsection 1,

1 paragraph H. When a revocation of probation results in the imposition of a disposition
2 under subsection 1, paragraph F or a period of confinement under subsection 1, paragraph
3 H, the court shall determine whether reasonable efforts have been made to prevent or
4 eliminate the need for removal of the juvenile from the juvenile's home or that no
5 reasonable efforts are necessary because of the existence of an aggravating factor as
6 defined in Title 22, section 4002, subsection 1-B and whether continuation in the
7 juvenile's home would be contrary to the welfare of the juvenile. This determination does
8 not affect whether the court orders a particular disposition upon a revocation of probation.
9 If the juvenile is being detained for an alleged violation of probation, the court shall
10 review within 48 hours following the detention, excluding Saturdays, Sundays and legal
11 holidays, the decision to detain the juvenile. Following that review, the court shall order
12 the juvenile's release unless the court finds that there is probable cause to believe that the
13 juvenile has violated a condition of probation and finds, by a preponderance of the
14 evidence, that continued detention is necessary to meet one of the purposes of detention
15 under section 3203-A, subsection 4, paragraph C. When a court orders continued
16 detention, the court shall determine whether reasonable efforts have been made to prevent
17 or eliminate the need for removal of the juvenile from the juvenile's home or that no
18 reasonable efforts are necessary because of the existence of an aggravating factor as
19 defined in Title 22, section 4002, subsection 1-B and whether continuation in the
20 juvenile's home would be contrary to the welfare of the juvenile. This determination does
21 not affect whether the court orders continued detention.

22 **Sec. C-50. 15 MRSA §3314, sub-§6**, as amended by PL 2015, c. 485, §1, is
23 further amended to read:

24 **6. Forfeiture of firearms.** As part of every disposition in every proceeding under
25 this code, every firearm that constitutes the basis for an adjudication for a juvenile crime
26 that, if committed by an adult, would constitute a violation of section 393; Title 17-A,
27 section 1105-A, subsection 1, paragraph C-1; Title 17-A, section 1105-B, subsection 1,
28 paragraph C; Title 17-A, section 1105-C, subsection 1, paragraph C-1; Title 17-A, section
29 1105-D, subsection 1, paragraph B-1; or Title 17-A, section 1118-A, subsection 1,
30 paragraph B and every firearm used by the juvenile or any accomplice during the course
31 of conduct for which the juvenile has been adjudicated to have committed a juvenile
32 crime that would have been forfeited pursuant to Title 17-A, section ~~4458-A~~ 1504 if the
33 criminal conduct had been committed by an adult must be forfeited to the State and the
34 juvenile court shall so order unless another person satisfies the court prior to the
35 dispositional hearing and by a preponderance of the evidence that the other person had a
36 right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct
37 that constitutes the juvenile crime. Rules adopted by the Attorney General that govern
38 the disposition of firearms forfeited pursuant to Title 17-A, section ~~4458-A~~ 1504 govern
39 forfeitures under this subsection.

40 **Sec. C-51. 15 MRSA §3314-A**, as amended by PL 2009, c. 93, §13, is further
41 amended to read:

42 **§3314-A. Period of probation; modification and discharge**

43 The period of probation of a juvenile, its modification and discharge, is as provided
44 by Title 17-A, section ~~4202~~ 1804, except that the period of probation of a juvenile

1 convicted of a juvenile crime as defined by section 3103, subsection 1, paragraph B, C or
2 E may not exceed one year. The period of probation may extend beyond the juvenile's
3 21st birthday.

4 **Sec. C-52. 15 MRSA §5821, sub-§3-B**, as enacted by PL 2013, c. 328, §2, is
5 amended to read:

6 **3-B. Forfeiture of firearms used in the commission of certain acts.** In addition to
7 the provisions of subsection 3-A and Title 17-A, section ~~1158-A~~ 1504, this subsection
8 controls the forfeiture of firearms used in the commission of certain acts.

9 A. Except as provided in paragraph B, a firearm is subject to forfeiture to the State if
10 the firearm is used by a person to commit a criminal act that in fact causes serious
11 bodily injury or death to another human being and, following that act, the person
12 either commits suicide or attempts to commit suicide and the attempt results in the
13 person's becoming incompetent to stand trial or the person is killed or rendered
14 incompetent to stand trial as the result of a justifiable use of deadly force by a law
15 enforcement officer. Except as provided in paragraph B, a property right does not
16 exist in the firearm subject to forfeiture.

17 B. A firearm that is used in the commission of a criminal act described in paragraph
18 A is exempt from forfeiture under this subsection if the firearm belongs to another
19 person who is the rightful owner from whom the firearm has been stolen and the
20 other person is not a principal or accomplice in the criminal act. In that case, the
21 firearm must be transferred to the other person unless that person is otherwise
22 prohibited from possessing a firearm under applicable law.

23 A firearm subject to forfeiture pursuant to this subsection that is declared by a court to be
24 forfeited pursuant to section 5822 must be promptly destroyed, or caused to be promptly
25 destroyed, by the law enforcement agency that has custody of the firearm.

26 **Sec. C-53. 15 MRSA §6101, sub-§1, ¶B**, as amended by PL 1995, c. 680, §2, is
27 further amended to read:

28 B. The victim's right to be advised of the existence of a negotiated plea agreement
29 before that agreement is submitted to the court pursuant to Title 17-A, section ~~1173~~
30 2103;

31 **Sec. C-54. 15 MRSA §6101, sub-§1, ¶D**, as amended by PL 1995, c. 680, §2, is
32 further amended to read:

33 D. The victim's right to make a statement or submit a written statement at the time of
34 sentencing pursuant to Title 17-A, section ~~1174~~ 2104 upon conviction of the
35 defendant; and

36 **Sec. C-55. 17 MRSA §1031, sub-§1-B**, as amended by PL 2005, c. 281, §8 and
37 c. 397, Pt. F, §1, is further amended to read:

38 **1-B. Aggravated cruelty to animals.** A person is guilty of aggravated cruelty to
39 animals if that person, in a manner manifesting a depraved indifference to animal life or
40 suffering, intentionally, knowingly or recklessly:

- 1 A. Causes extreme physical pain to an animal;
- 2 B. Causes the death of an animal; or
- 3 C. Physically tortures an animal.

4 Violation of this subsection is a Class C crime. Notwithstanding Title 17-A, ~~section 1301~~
5 ~~sections 1704 and 1705~~, the court shall impose a fine of not less than \$1,000 and not
6 more than \$10,000 for a first or subsequent violation of this subsection. The sentencing
7 provisions in subsection 3-B also apply to a person convicted of aggravated cruelty to
8 animals.

9 **Sec. C-56. 17 MRSA §2512, sub-§4**, as enacted by PL 2005, c. 546, §1, is
10 amended to read:

11 **4. Restitution.** In addition to any penalties imposed pursuant to subsection 3 and,
12 when appropriate, in accordance with the requirements of Title 17-A, chapter ~~54~~ 69, the
13 court shall order restitution to the landowner on the basis of an adequate factual
14 foundation. The amount of restitution may be determined by using the measured volume
15 of the harvested forest products as listed on the measurement tally sheet or stumpage
16 sheet in accordance with Title 10, section 2364-A, subsection 2 and by the terms of the
17 sales contract according to the measurement procedures set forth in Title 10, section
18 2363-A that are applicable to a sale of wood.

19 Any restitution ordered and paid must be deducted from the amount of any restitution
20 awarded in a civil action brought by the owner or the State against the offender based on
21 the same facts.

22 **Sec. C-57. 17-A MRSA §8, sub-§2-A**, as enacted by PL 2013, c. 392, §2, is
23 amended to read:

24 **2-A.** A prosecution for a Class A, Class B or Class C crime involving unlawful
25 sexual contact or gross sexual assault must be commenced within 8 years after it is
26 committed.

27 This subsection does not apply to a Class D crime enhanced to a Class C crime pursuant
28 to section ~~1252~~ 1604, subsection ~~4-A~~ 5, paragraph B.

29 **Sec. C-58. 17-A MRSA §152-A, sub-§2**, as enacted by PL 2001, c. 413, §2, is
30 amended to read:

31 **2.** Aggravated attempted murder is a Class A crime except that, notwithstanding
32 section ~~1252~~ 1604, subsection ~~2~~ 1, paragraph A, the sentence for aggravated attempted
33 murder is imprisonment for life or a definite period of imprisonment for any term of
34 years. The existence of an aggravating circumstance serves only as a precondition for the
35 court to consider a life sentence.

36 **Sec. C-59. 17-A MRSA §210-A, sub-§1, ¶C**, as amended by PL 2015, c. 470,
37 §11, is further amended to read:

1 C. The actor violates paragraph A and has one or more prior convictions in this State
2 or another jurisdiction. Notwithstanding section 2, subsection 3-B, as used in this
3 paragraph, "another jurisdiction" also includes any Indian tribe.

4 Violation of this paragraph is a Class C crime. In determining the sentence for a
5 violation of this paragraph the court shall impose a sentencing alternative pursuant to
6 section ~~152~~ 1502, subsection 2 that includes a term of imprisonment. In
7 determining the basic term of imprisonment as the first step in the sentencing process,
8 the court shall select a term of at least one year.

9 For the purposes of this paragraph, "prior conviction" means a conviction for a
10 violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19,
11 section 769; Title 19-A, section 4011; Title 22, section 4036; any other temporary,
12 emergency, interim or final protective order; an order of a tribal court of the
13 Passamaquoddy Tribe or the Penobscot Nation; any similar order issued by any court
14 of the United States or of any other state, territory, commonwealth or tribe; or a
15 court-approved consent agreement. Section 9-A governs the use of prior convictions
16 when determining a sentence;

17 **Sec. C-60. 17-A MRSA §210-A, sub-§1, ¶E**, as amended by PL 2015, c. 470,
18 §12, is further amended to read:

19 E. The actor violates paragraph C and at least one prior conviction was for a
20 violation of paragraph D.

21 Violation of this paragraph is a Class B crime. In determining the sentence for a
22 violation of this paragraph the court shall impose a sentencing alternative pursuant to
23 section ~~152~~ 1502, subsection 2 that includes a term of imprisonment. In
24 determining the basic term of imprisonment as the first step in the sentencing process,
25 the court shall select a term of at least 2 years.

26 **Sec. C-61. 17-A MRSA §401, sub-§3**, as amended by PL 2001, c. 383, §55 and
27 affected by §156, is further amended to read:

28 **3.** A person may be convicted both of burglary and of the crime that the person
29 committed or attempted to commit after entering or remaining in the structure, but
30 sentencing for both crimes is governed by section ~~1256~~ 1608.

31 **Sec. C-62. 17-A MRSA §755, sub-§1-E**, as enacted by PL 2011, c. 464, §15, is
32 amended to read:

33 **1-E.** A person is guilty of escape from the community confinement monitoring
34 program granted pursuant to Title 30-A, section 1659-A if without official permission the
35 person intentionally:

36 A. Leaves or fails to return within 12 hours to that person's residence or other
37 designated area in which that person is monitored. Violation of this paragraph is a
38 Class C crime; or

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

4 A sentence imposed for a violation of this section is subject to the requirements of section
5 ~~1256, subsection 1~~ 1609.

6 **Sec. C-63. 17-A MRSA §755, sub-§3**, as amended by PL 1985, c. 210, is further
7 amended to read:

8 **3.** As used in this section, "official custody" means arrest, custody in, or on the way
9 to or from a courthouse or a jail, police station, house of correction, or any institution or
10 facility under the control of the Department of Corrections, or under contract with the
11 department for the housing of persons sentenced to imprisonment, the custody of any
12 official of the department, the custody of any institution in another jurisdiction pursuant
13 to a sentence imposed under the authority of section ~~1253~~ 2303, subsection ~~1-A~~ 3 or any
14 custody pursuant to court order. A person on a parole or probation status is not, for that
15 reason alone, in "official custody" for purposes of this section.

16 **Sec. C-64. 17-A MRSA §853-A, sub-§1, ¶A**, as enacted by PL 2001, c. 383,
17 §99 and affected by §156, is amended to read:

18 A. The person engages in prostitution as defined in section 851. Violation of this
19 paragraph is a Class E crime, except that the sentencing alternative may include only
20 the penalties provided in section ~~1301~~ 1704, subsection 5 and section 1705,
21 subsection 5; or

22 **Sec. C-65. 19-A MRSA §2152, sub-§11**, as enacted by PL 1995, c. 694, Pt. B,
23 §2 and affected by Pt. E, §2, is amended to read:

24 **11. Confidentiality of information; unlawful dissemination; penalty.** All
25 information collected in connection with the department's child support enforcement
26 activity and medical support recoupment pursuant to this section is confidential and
27 available only for the use of appropriate departmental personnel and legal counsel for the
28 department in carrying out their functions. A person is guilty of unlawful dissemination
29 if that person knowingly disseminates information in violation of this subsection.
30 Unlawful dissemination is a Class E crime, ~~which that~~, notwithstanding Title 17-A,
31 section ~~1252~~ 1604, subsection ~~2~~ 1, paragraph E, is punishable by a fine of not more than
32 \$500 or by imprisonment for not more than 30 days.

33 **Sec. C-66. 19-A MRSA §4002, sub-§4**, as amended by PL 2015, c. 296, Pt. C,
34 §24 and affected by Pt. D, §1, is further amended to read:

35 **4. Family or household members.** "Family or household members" means spouses
36 or domestic partners or former spouses or former domestic partners, individuals presently
37 or formerly living together as spouses, parents of the same child, adult household
38 members related by consanguinity or affinity or minor children of a household member
39 when the defendant is an adult household member and, for the purposes of Title 15,
40 section 1023, subsection 4, paragraph B-1 and Title 15, section 1094-B, this chapter and
41 Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C, 211-A, ~~1201, 1202~~ 1802, 1804 and

1 1253 2301, subsection 1 only, includes individuals presently or formerly living together
2 and individuals who are or were sexual partners. Holding oneself out to be a spouse is not
3 necessary to constitute "living as spouses." For purposes of this subsection, "domestic
4 partners" means 2 unmarried adults who are domiciled together under long-term
5 arrangements that evidence a commitment to remain responsible indefinitely for each
6 other's welfare.

7 **Sec. C-67. 22 MRSA §4008, sub-§4**, as amended by PL 1989, c. 502, Pt. D, §18,
8 is further amended to read:

9 **4. Unlawful dissemination; penalty.** A person is guilty of unlawful dissemination
10 if ~~he~~ the person knowingly disseminates records ~~which~~ that are determined confidential
11 by this section, in violation of the mandatory or optional disclosure provisions of this
12 section. Unlawful dissemination is a Class E crime, ~~which that~~, notwithstanding Title
13 17-A, section ~~1252~~ 1604, subsection ~~2~~ 1, paragraph E, is punishable by a fine of not more
14 than \$500 or by imprisonment for not more than 30 days.

15 **Sec. C-68. 25 MRSA §3503-A**, as amended by PL 2003, c. 657, §11, is further
16 amended to read:

17 **§3503-A. Disposal of firearms and ammunition**

18 Notwithstanding any other provision of this chapter, a police department or other law
19 enforcement agency retaining firearms and ammunition covered by this chapter, Title 15,
20 section 3314 or chapter 517, or Title 17-A, section ~~4158-A~~ 1504 may auction the firearms
21 to federally licensed firearms dealers or the public, use the firearms and ammunition for
22 training purposes or destroy the firearms and ammunition.

23 **Sec. C-69. 27 MRSA §375, sub-§2**, as amended by PL 1999, c. 748, §2, is
24 further amended to read:

25 **2. Penalty.** ~~Notwithstanding Title 17-A, sections 4-A and 1301, a~~ A violation of this
26 chapter is a Class E crime for which a fine of not less than \$250 must be adjudged. The
27 unlawful excavation for any one day constitutes a separate violation. The court also may
28 order the defendant to pay an amount equal to the reasonable cost of a proper
29 archaeological excavation had the area that was unlawfully excavated been properly
30 excavated. The Director of the Maine Historic Preservation Commission, in the name of
31 the people of this State through the Attorney General, may in addition to other remedies
32 provided bring an action for an injunction seeking one or more of the following remedies:

- 33 A. To restrain a violation of this chapter; or
34 B. To enjoin future unlawful excavation.

35 **Sec. C-70. 28-A MRSA §2081, sub-§1, ¶¶C and D**, as amended by PL 2003,
36 c. 452, Pt. P, §9 and affected by Pt. X, §2, are further amended to read:

37 C. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver
38 liquor to a visibly intoxicated person. Violation of this paragraph is a Class E crime,

1 except notwithstanding Title 17-A, ~~section 1301~~ sections 1704 and 1705, the fine
2 may not be more than \$500; or

3 D. Procure, or in any way assist in procuring, furnish, give, sell or deliver imitation
4 liquor for or to a minor, or allow a minor under that person's control or in a place
5 under that person's control to possess or consume imitation liquor. Violation of this
6 paragraph is a Class E crime, except notwithstanding Title 17-A, ~~section 1301~~
7 sections 1704 and 1705, the fine may not be more than \$500.

8 **Sec. C-71. 28-A MRSA §2088, sub-§3, ¶B**, as enacted by PL 2005, c. 259, §1,
9 is amended to read:

10 B. A person who violates this subsection after having been previously adjudicated as
11 violating this subsection commits a Class E crime for which a fine of not less than
12 \$1,000 and, notwithstanding Title 17-A, ~~section 1301~~ 1704, subsection 5 and section
13 1705, subsection 5, not more than \$5,000 must be imposed. In addition to a fine
14 imposed under this subsection, if the person is a licensee under chapter 19, 43 or 45,
15 the court may suspend that person's license for up to one year. A violation under this
16 paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection
17 4-A.

18 **Sec. C-72. 28-A MRSA §2089, sub-§2, ¶B**, as enacted by PL 2015, c. 205, §1,
19 is amended to read:

20 B. A person who violates this subsection after having been previously adjudicated as
21 violating this subsection commits a Class E crime for which a fine of not less than
22 \$1,000 and, notwithstanding Title 17-A, ~~section 1301~~ 1704, subsection 5 and section
23 1705, subsection 5, not more than \$5,000 must be imposed. In addition to a fine
24 imposed under this subsection, if the person is a licensee under chapter 19, 43, 45, 51
25 or 55, the court may suspend that person's license for up to one year in accordance
26 with chapter 33. A violation under this paragraph is a strict liability crime as defined
27 in Title 17-A, section 34, subsection 4-A.

28 **Sec. C-73. 29-A MRSA §115, last ¶**, as amended by PL 2005, c. 507, §17, is
29 further amended to read:

30 Any period of confinement must be served concurrently with any other period of
31 confinement previously imposed and not fully discharged or imposed on the same date.
32 Any period of confinement is subject to Title 17-A, ~~section 1253, subsection 2~~ 2305,
33 except that a statement is not required to be furnished and the day-for-day deduction must
34 be determined by the facility, but is not subject to Title 17-A, section 1253, subsection 2,
35 paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10 2305, subsection 4; section 2307,
36 subsections 2, 3 and 4; section 2308, subsection 2; section 2309, subsection 2; or section
37 2310, subsections 3, 6 and 7. If the court suspends the period of confinement in whole or
38 in part, the court shall impose a period of administrative release not to exceed one year.
39 The administrative release must be administered pursuant to Title 17-A, ~~chapter 54-G~~ 67,
40 subchapter 2, and revocation of the administrative release is governed by the provisions
41 of that ~~chapter~~ subchapter.

1 **Sec. C-74. 29-A MRSA §2054, sub-§4**, as amended by PL 1997, c. 162, §1, is
2 further amended to read:

3 **4. Right-of-way.** An authorized emergency vehicle operated in response to, but not
4 returning from, a call or fire alarm or operated in pursuit of an actual or suspected
5 violator of the law has the right-of-way when emitting a visual signal using an emergency
6 light and an audible signal using a bell or siren. On the approach of any such vehicle, the
7 operator of every other vehicle shall immediately draw that vehicle as near as practicable
8 to the right-hand curb, parallel to the curb and clear of any intersection and bring it to a
9 standstill until the authorized emergency vehicle has passed. A violation of this
10 subsection is a Class E crime that, ~~notwithstanding Title 17-A, section 1301~~, is
11 punishable by a minimum fine of \$250 for the first offense and for a 2nd offense
12 occurring within 3 years of the first offense a mandatory 30-day suspension of a driver's
13 license.

14 **Sec. C-75. 29-A MRSA §2308, sub-§6**, as enacted by PL 1993, c. 683, Pt. A, §2
15 and affected by Pt. B, §5, is amended to read:

16 **6. Penalty.** A violation of this section is a Class E crime ~~which, notwithstanding~~
17 ~~Title 17-A, section 1301~~, that is punishable by a \$250 minimum fine for the first offense
18 and a mandatory 30-day suspension of a driver's license for a 2nd offense occurring
19 within 3 years of the first offense.

20 **Sec. C-76. 30-A MRSA §1557-B, sub-§4, ¶B**, as enacted by PL 2015, c. 335,
21 §16, is amended to read:

22 B. The prisoner becomes eligible for ~~meritorious good time deductions~~ as provided
23 in Title 17-A, section ~~1253~~ 2302, subsection 1; section 2305; section 2307; section
24 2308; section 2309; section 2310; or section 2311 for a prisoner sentenced to
25 imprisonment in a county jail;

26 **Sec. C-77. 30-A MRSA §1557-B, sub-§4, ¶C**, as enacted by PL 2015, c. 335,
27 §16, is amended to read:

28 C. The prisoner becomes eligible for release and discharge as provided in Title 17-A,
29 section ~~1254~~ 2314, subsection 1 for a prisoner sentenced to imprisonment in a county
30 jail;

31 **Sec. C-78. 30-A MRSA §1605, sub-§1, ¶G**, as enacted by PL 1987, c. 737, Pt.
32 A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and
33 10, is further amended to read:

34 G. To work or provide service to the victim of the crime in accordance with Title
35 17-A, chapter ~~54~~ 69, but only with the express approval of the victim.

36 **Sec. C-79. 30-A MRSA §1605, sub-§5, ¶D**, as amended by PL 2003, c. 413, §4,
37 is further amended to read:

1 D. Payments, either in full or ratably, of restitution, and of the prisoners' obligations,
2 acknowledged in writing, in accordance with Title 17-A, chapter ~~54~~ 69, or that have
3 been reduced to judgment;

4 **Sec. C-80. 30-A MRSA §1606, sub-§2**, as amended by PL 2013, c. 519, §9, is
5 further amended to read:

6 **2. Sentence prorated.** Inmates participating in a public works-related project or an
7 improvement of property owned by a charitable organization under this section may have
8 their sentences to the jail prorated at the rate of up to one day removed from the sentences
9 for every 16 hours of participation in the project, except that inmates committed to the
10 custody of the sheriff for nonpayment of fines under Title 17-A, section ~~1304~~ 1711 must
11 have their sentences prorated at the rate that is applicable to the individual inmate
12 pursuant to Title 17-A, section ~~1304~~ 1711, subsection ~~3~~ 4, paragraph A, subparagraph (1).

13 **Sec. C-81. 30-A MRSA §1659-A, sub-§2, ¶E**, as enacted by PL 2009, c. 391,
14 §6, is amended to read:

15 E. The inmate serves a minimum of 1/3 of the term of imprisonment, or, in the case
16 of a split sentence, a minimum of 1/3 of the unsuspended portion, prior to
17 participating in a community confinement monitoring program. In calculating the
18 amount of time served, ~~good time or~~ deductions earned under Title 17-A, section
19 ~~1253~~ 2302, subsection 1; section 2305; section 2307; section 2308; section 2309;
20 section 2310; or section 2311 and time reductions earned for charitable or public
21 works projects under section 1606 must be counted; and

22 **Sec. C-82. 30-A MRSA §3972, sub-§8**, as enacted by PL 2013, c. 398, §1, is
23 amended to read:

24 **8. Violations.** A dealer who violates any of the requirements of this section is guilty
25 of a Class E crime except as specified in subsection 2, paragraph E. A court may award
26 restitution pursuant to Title 17-A, section ~~1325~~ 2005 to any victim, including a dealer,
27 who suffers an economic loss as the result of a violation of this section.

28 **Sec. C-83. 32 MRSA §11304, sub-§1**, as amended by PL 1989, c. 542, §78, is
29 further amended to read:

30 **1. Knowing violation.** Any person who knowingly violates any provision of this
31 chapter or any rule or order of the administrator under this chapter ~~shall be~~ is guilty of a
32 Class C crime, ~~provided except~~ that, notwithstanding Title 17-A, section ~~1304~~ sections
33 1704 and 1705, the maximum fine ~~shall be~~ is \$10,000 or any higher amount ~~which that~~
34 does not exceed twice the pecuniary gain derived from the crime by the defendant
35 pursuant to Title 17-A, section 1706, subsection 1.

36 **Sec. C-84. 32 MRSA §13731, sub-§3**, as enacted by PL 1987, c. 710, §5, is
37 amended to read:

38 **3. Violation.** Any person who violates this chapter commits a Class E crime and,
39 notwithstanding Title 17-A, section ~~1304~~ sections 1704 and 1705, may be punished by a

1 fine of not more than \$1,000. Each violation of each section of this chapter constitutes a
2 separate offense.

3 **Sec. C-85. 32 MRSA §15223, sub-§4**, as enacted by PL 2001, c. 573, Pt. B, §27
4 and affected by §36, is amended to read:

5 **4. Class of crime; enhanced fine.** Criminal operation of an elevator or tramway is a
6 Class E crime. However, notwithstanding Title 17-A, section ~~1304~~ 1704, subsection ~~1-A,~~
7 ~~paragraph E 5~~ or Title 17-A, section ~~1304~~ 1705, subsection ~~3,~~ ~~paragraph E 5~~, the court
8 may impose an enhanced fine. The fine amount above that authorized under Title 17-A,
9 section ~~1304~~ 1704, subsection 5 or Title 17-A, section 1705, subsection 5 is based solely
10 on the number of days of criminal operation pleaded and proved by the State. For each
11 day of criminal operation pleaded and proved, the court may increase the fine amount by
12 up to \$100 for each of those days.

13 **Sec. C-86. 32 MRSA §15223, sub-§5**, as enacted by PL 2001, c. 573, Pt. B, §27
14 and affected by §36, is amended to read:

15 **5. Imposition of sentence without enhanced fine.** Nothing in subsection 3 or 4
16 may be construed to restrict a court, in imposing any authorized sentencing alternative,
17 including a fine in an amount authorized under Title 17-A, section ~~1304~~ 1704, subsection
18 ~~1-A, paragraph E 5~~ or Title 17-A, section ~~1304~~ 1705, subsection ~~3,~~ ~~paragraph E 5~~, from
19 considering the number of days of illegal operation, along with any other relevant
20 sentencing factor, which need not be pleaded or proved by the State.

21 **Sec. C-87. 34-A MRSA §3032, sub-§4**, as amended by PL 1997, c. 464, §11, is
22 further amended to read:

23 **4. Withdrawal of deductions.** All punishments involving ~~loss of good time or~~
24 ~~withdrawal of deductions~~ subject to being withdrawn must be first approved by the chief
25 administrative officer.

26 **Sec. C-88. 34-A MRSA §3035, first ¶**, as amended by PL 1991, c. 314, §40, is
27 further amended to read:

28 The commissioner may adopt, implement and establish rules for rehabilitative
29 programs, including work release, ~~restitution and~~ furlough and restitution, as authorized
30 by Title 17-A, chapter ~~54~~ 69, within the facilities under the commissioner's control.

31 **Sec. C-89. 34-A MRSA §3035, sub-§4, ¶B**, as corrected by RR 2009, c. 2, §93,
32 is amended to read:

33 B. Interference with a rehabilitative program or furlough is a Class E crime, except
34 that, notwithstanding Title 17-A, section 1604, subsection 1, paragraph E, the court
35 may sentence a person to imprisonment for not more than 11 months.

36 **Sec. C-90. 34-A MRSA §3035, sub-§5**, as amended by PL 1991, c. 314, §40, is
37 further amended to read:

1 **5. Time served before furlough.** No furlough may be granted until the client has
2 served 50% of the original sentence imposed, after consideration of any ~~good-time~~
3 deductions that the client has received and retained under Title 17-A, section ~~4253~~ 2302,
4 subsection 1; section 2305; section 2307; section 2308; section 2309; section 2310; or
5 section 2311. This section does not apply to furloughs granted under subsection 2,
6 paragraph B or C.

7 **Sec. C-91. 34-A MRSA §3036-A, sub-§2, ¶B,** as amended by PL 2001, c. 141,
8 §1, is further amended to read:

9 B. A prisoner may not be transferred to supervised community confinement until the
10 prisoner has served at least 2/3 of the term of imprisonment imposed or, in the case of
11 a split sentence, at least 2/3 of the unsuspended portion, after consideration of any
12 deductions that the prisoner has received and retained under Title 17-A, section ~~4253~~
13 2302, subsection 1; section 2305; section 2307; section 2308; section 2309; section
14 2310; or section 2311 if the term of imprisonment or, in the case of a split sentence,
15 the unsuspended portion is more than 5 years. A prisoner may not be transferred to
16 supervised community confinement until the prisoner has served at least 1/2 of the
17 term of imprisonment imposed or, in the case of a split sentence, at least 1/2 of the
18 unsuspended portion after consideration of any deductions that the prisoner has
19 received and retained under Title 17-A, section ~~4253~~ 2302, subsection 1; section
20 2305; section 2307; section 2308; section 2309; section 2310; or section 2311 if the
21 term of imprisonment or, in the case of a split sentence, the unsuspended portion is 5
22 years or less.

23 **Sec. C-92. 34-A MRSA §3036-A, sub-§2, ¶C,** as amended by PL 2007, c. 240,
24 Pt. ZZZ, §2, is further amended to read:

25 C. Except as provided in paragraph C-1, a prisoner may not be transferred to
26 supervised community confinement unless the prisoner has no more than 18 months
27 remaining on the term of imprisonment or, in the case of a split sentence, on the
28 unsuspended portion, after consideration of any deductions that the prisoner has
29 received and retained under Title 17-A, section ~~4253~~ 2302, subsection 1; section
30 2305; section 2307; section 2308; section 2309; section 2310; or section 2311.

31 **Sec. C-93. 34-A MRSA §3036-A, sub-§2, ¶C-1,** as enacted by PL 2003, c. 711,
32 Pt. A, §22 and affected by Pt. D, §2, is amended to read:

33 C-1. If the commissioner determines that the average statewide probation case load
34 is no more than 90 probationers to one probation officer, then a prisoner may be
35 transferred to supervised community confinement if that prisoner has no more than 2
36 years remaining on the term of imprisonment or, in the case of a split sentence, on the
37 unsuspended portion, after consideration of any deductions that the prisoner has
38 received and retained under Title 17-A, section ~~4253~~ 2302, subsection 1; section
39 2305; section 2307; section 2308; section 2309; section 2310; or section 2311.

40 **Sec. C-94. 34-A MRSA §3036-A, sub-§4, ¶A,** as enacted by PL 1991, c. 845,
41 §4, is amended to read:

1 A. Any condition that may be imposed as a condition of probation pursuant to Title
2 17-A, section ~~1204~~ 1807; and

3 **Sec. C-95. 34-A MRSA §3036-A, sub-§9**, as amended by PL 1997, c. 464, §12,
4 is further amended to read:

5 **9. Probation violation; revocation.** If a prisoner on supervised community
6 confinement violates a condition of supervised community confinement imposed on the
7 prisoner and if the violation conduct is also a violation of a condition of probation
8 imposed as part of the sentence the prisoner is serving while on supervised community
9 confinement, a probation officer may file with any court a motion for revocation of
10 probation and the court may revoke probation as specified in Title 17-A, section ~~1206~~
11 1812.

12 **Sec. C-96. 34-A MRSA §3042, sub-§3, ¶C**, as enacted by PL 1983, c. 459, §6,
13 is amended to read:

14 C. A certificate of the commissioner, warden or other official having custody of the
15 prisoner stating:

- 16 (1) The term of commitment under which the prisoner is held;
- 17 (2) The time already served on the sentence;
- 18 (3) The time remaining to be served;
- 19 (4) The ~~amount of good time earned~~ total of deductions received and retained;
- 20 (5) The time of parole eligibility of the prisoner; and
- 21 (6) Any decisions of the State Parole Board relating to the prisoner.

22 **Sec. C-97. 34-A MRSA §3047, sub-§2**, as amended by PL 2007, c. 102, §9, is
23 further amended to read:

24 **2. Money.** May give the prisoner an amount equal to the net salary of a single wage
25 earner with no dependents for 40 hours of work at the state minimum wage less all
26 applicable state and federal deductions ~~provided~~ except that any amount in excess of \$50
27 may not be provided by the General Fund, except that the commissioner may not give
28 money to a prisoner who:

29 A. Has, within the 6 months prior to the date of parole or discharge, transferred from
30 the department's general client account to any person more than \$500, excluding any
31 money transferred for the support of dependents; or

32 B. Has, on the date of parole or discharge, more than \$500 in personal assets.

33 Money received by the prisoner under this subsection is not subject to section 3032,
34 subsection 5-A or 5-B or Title 17-A, section ~~1330~~ 2016, subsection 2;

35 **Sec. C-98. 34-A MRSA §3061, sub-§1**, as amended by PL 2017, c. 148, §7, is
36 further amended to read:

1 **1. Transfer.** The commissioner may transfer any client from one correctional or
2 detention facility or program, including prerelease centers, work release centers, halfway
3 houses, supervised community confinement or specialized treatment facilities, to another.
4 A juvenile may not be transferred to another facility or program for adult offenders and
5 an adult offender may not be transferred to another facility or program for juveniles,
6 except that an adult offender may be housed in the Long Creek Youth Development
7 Center or the Mountain View Correctional Facility pursuant to section 4117 or Title
8 17-A, section ~~4259~~ 1611.

9 **Sec. C-99. 34-A MRSA §3061, sub-§2, ¶B,** as repealed and replaced by PL
10 1983, c. 581, §§26 and 59, is amended to read:

11 B. The person becomes eligible for release and discharge as provided in Title 17-A,
12 section ~~4254~~ 2314.

13 **Sec. C-100. 34-A MRSA §3063-C, sub-§4, ¶¶B and C,** as enacted by PL
14 2015, c. 335, §28, are amended to read:

15 B. The prisoner becomes eligible for ~~meritorious good time or~~ deductions as
16 provided in Title 17-A, section ~~4253~~ 2302, subsection 1; section 2305; section 2307;
17 section 2308; section 2309; section 2310; or section 2311 for a prisoner committed to
18 the department;

19 C. The prisoner becomes eligible for release and discharge as provided in Title 17-A,
20 section ~~4254~~ 2314, subsection 1 for a prisoner committed to the department;

21 **Sec. C-101. 34-A MRSA §3802, sub-§1, ¶I,** as enacted by PL 2007, c. 686, §4,
22 is amended to read:

23 I. To confine juveniles committed to a juvenile correctional facility pursuant to Title
24 17-A, section ~~4259~~ 1611.

25 **Sec. C-102. 34-A MRSA §5001, sub-§6,** as enacted by PL 1983, c. 459, §6, is
26 amended to read:

27 **6. Parole.** "Parole" is a release procedure by which a person may be released from a
28 correctional facility by the State Parole Board prior to the expiration of ~~his~~ the person's
29 maximum term, parole status being in effect under Title 17-A, section ~~4254~~ 2314,
30 subsection ~~3~~ 2, with all provisions of prior laws governing parole continuing in effect.

31 **Sec. C-103. 34-A MRSA §5211, sub-§2,** as enacted by PL 1983, c. 459, §6, is
32 amended to read:

33 **2. Restitution.** The board may authorize and impose as a condition of parole that the
34 person make restitution to ~~his~~ the person's victim or other authorized claimant in
35 accordance with Title 17-A, chapter ~~54~~ 69.

36 **Sec. C-104. 34-A MRSA §9603, sub-§1,** as enacted by PL 1983, c. 459, §6, is
37 amended to read:

1 **1. Trial pending.** Whenever a person has entered upon a term of imprisonment in a
2 penal or correctional institution of a party state, and whenever during the continuance of
3 the term of imprisonment there is pending in any other party state any untried indictment,
4 information or complaint on the basis of which a detainer has been lodged against the
5 prisoner, ~~he shall~~ the prisoner must be brought to trial within 180 days after ~~he shall have~~
6 the prisoner has caused to be delivered to the prosecuting officer and the appropriate
7 court of the prosecuting officer's jurisdiction written notice of the place of ~~his~~ the
8 prisoner's imprisonment and ~~his~~ the prisoner's request for final disposition to be made of
9 the indictment, information or complaint, ~~provided~~ except that, for good cause shown in
10 open court, the prisoner or ~~his~~ the prisoner's counsel being present, the court having
11 jurisdiction of the matter may grant any necessary or reasonable continuance. The
12 request of the prisoner ~~shall~~ must be accompanied by a certificate of the appropriate
13 official having custody of the prisoner, stating the term of commitment under which the
14 prisoner is being held, the time already served, the time remaining to be served on the
15 sentence, the ~~amount of good time earned~~ total of deductions received and retained, the
16 time of parole eligibility of the prisoner and any decisions of the state parole agency
17 relating to the prisoner.

18 **Sec. C-105. 34-A MRSA §9604, sub-§2**, as enacted by PL 1983, c. 459, §6, is
19 amended to read:

20 **2. Certificate.** Upon receipt of the officer's written request as provided in subsection
21 1, the appropriate authorities having the prisoner in custody shall furnish the officer with
22 a certificate stating the term of commitment under which the prisoner is being held, the
23 time already served, the time remaining to be served on the sentence, the ~~amount of good~~
24 ~~time earned~~ total of deductions received and retained, the time of parole eligibility of the
25 prisoner and any decisions of the state parole agency relating to the prisoner. Said
26 authorities simultaneously shall furnish all other officers and appropriate courts in the
27 receiving state who have lodged detainers against the prisoner with similar certificates
28 and with notices informing them of the request for custody or availability and of the
29 reasons therefor.

30 **Sec. C-106. 34-A MRSA §9605, sub-§6**, as enacted by PL 1983, c. 459, §6, is
31 amended to read:

32 **6. Time on sentence.** During the continuance of temporary custody or while the
33 prisoner is otherwise being made available for trial as required by this agreement, time
34 being served on the sentence ~~shall continue~~ continues to run, but ~~good time shall be~~
35 ~~deductions for good behavior and program participation are~~ earned by the prisoner only
36 if, and to the extent that, the law and practice of the jurisdiction ~~which~~ that imposed the
37 sentence ~~may~~ allow.

38 **Sec. C-107. 34-A MRSA §11273, sub-§3**, as amended by PL 2013, c. 133, §33,
39 is further amended to read:

40 **3. Conditional release.** "Conditional release" means supervised release of a
41 registrant or an offender from institutional confinement for placement on probation,
42 parole, supervised release for sex offenders, supervised community confinement, home

1 release monitoring or release under Title 15, section 104-A or Title 17-A, chapter ~~54-G~~
2 67, subchapter 2.

3 **Sec. C-108. 34-B MRSA §1203-A, sub-§7, ¶B,** as enacted by PL 1989, c. 227,
4 §1, is amended to read:

5 B. Notwithstanding Title 17-A, sections 4-A ~~and 1301, 1704 and 1705,~~ unlicensed
6 operation of a mental health service facility is punishable by a fine of not more than
7 \$500 or by imprisonment for not more than 60 days.

8 **Sec. C-109. 34-B MRSA §1220, sub-§1, ¶A,** as corrected by RR 1997, c. 1,
9 §27, is amended to read:

10 A. To provide reports in a timely fashion on behalf of the department in response to
11 any requests made by a court pursuant to Title 17-A, section ~~1204~~ 1807, subsection ~~4~~
12 5 and to undertake or cause to be undertaken such inquiries or evaluations as are
13 necessary to complete the reports;

14 **Sec. C-110. 34-B MRSA §1220, sub-§1, ¶C,** as enacted by PL 1997, c. 422, §3,
15 is amended to read:

16 C. To receive any notice of imposition of a condition of probation given pursuant to
17 Title 17-A, section ~~1204~~ 1807, subsection ~~4~~ 5 and to assess or to obtain an
18 assessment of the appropriateness and availability of the mental health services
19 necessary for an individual to meet the conditions of probation imposed.

20 **Sec. C-111. 36 MRSA §112-A, sub-§4,** as enacted by PL 2007, c. 539, Pt. OO,
21 §4, is amended to read:

22 **4. Accounting.** The creditor agency shall credit the account of the debtor with the
23 full amount of the collected debt, including the collection fee retained by, or reimbursed
24 to, the assessor, except that the collection fee may not be credited to the account of an
25 individual required to make restitution as provided in Title 17-A, section ~~1152~~ 1502,
26 subsection ~~2-A~~ 4.

27 **Sec. C-112. 36 MRSA §5276-A, sub-§6,** as amended by PL 2005, c. 389, §9, is
28 further amended to read:

29 **6. Accounting.** The creditor agency shall credit the account of the individual whose
30 refund has been set off with the full amount of the setoff, including the collection fee
31 retained by, or reimbursed to, the State Tax Assessor, except that the collection fee may
32 not be credited to the account of an individual required to make restitution as provided in
33 Title 17-A, section ~~1152~~ 1502, subsection ~~2-A~~ 4.

34 **Sec. C-113. 37-B MRSA §806, sub-§3,** as repealed and replaced by PL 2003, c.
35 452, Pt. V, §2 and affected by Pt. X, §2, is amended to read:

36 **3. Criminal penalties.** The following penalties apply to the following violations.

37 A. A person who intentionally, knowingly or recklessly fails to comply with the
38 reporting requirements of section 798, subsection 1 commits a Class C crime and,

1 notwithstanding Title 17-A, section ~~1301~~ 1704, subsection 3 and section 1705,
2 subsection 4, is subject to a fine of not more than \$25,000.

3 B. A person who violates paragraph A when the person has a prior conviction for
4 violation of paragraph A commits a Class C crime and, notwithstanding Title 17-A,
5 section ~~1301~~ 1704, subsection 3 and section 1705, subsection 4, is subject to a fine of
6 not more than \$50,000. Title 17-A, section 9-A governs the use of prior convictions
7 when determining a sentence.

8 **Sec. C-114. 38 MRSA §344-A, sub-§4**, as enacted by PL 1991, c. 471, is
9 amended to read:

10 **4. Penalty.** Notwithstanding section 349, any person who knowingly violates
11 subsection 3 is guilty of a Class D crime. Notwithstanding Title 17-A, ~~sections~~ section
12 4-A and ~~1301~~, section 1704, subsection 4 and section 1705, subsection 5, the fine for
13 each violation may not be less than \$5,000 nor more than \$25,000.

14 **Sec. C-115. 38 MRSA §349, sub-§1**, as amended by PL 2003, c. 452, Pt. W, §2
15 and affected by Pt. X, §2, is further amended to read:

16 **1. Criminal penalties.** Except as otherwise specifically provided, a person who
17 intentionally, knowingly, recklessly or with criminal negligence violates a law
18 administered by the department, including, without limitation, a violation of the terms or
19 conditions of an order, rule, license, permit, approval or decision of the board or
20 commissioner, or who disposes of more than 500 pounds or more than 100 cubic feet of
21 litter for a commercial purpose, in violation of Title 17, section 2264-A, commits a Class
22 E crime. Notwithstanding Title 17-A, section ~~1301~~ 1704, subsection 5 and section 1705,
23 subsection 5, the fine for a violation of this subsection may not be less than \$2,500 and
24 not more than \$25,000 for each day of the violation, except that the minimum amount for
25 knowing violations is \$5,000 for each day of violation.

26 This subsection does not apply to actions subject to the criminal penalties set forth in
27 section 1319-T.

28 **Sec. C-116. 38 MRSA §349, sub-§3**, as repealed and replaced by PL 2003, c.
29 452, Pt. W, §4 and affected by Pt. X, §2, is amended to read:

30 **3. Falsification and tampering.** A person may not knowingly:

31 A. Make a false statement, representation or certification in an application, record,
32 report, plan or other document filed or required to be maintained by any law
33 administered by the department or by any order, rule, license, permit, approval or
34 decision of the board or commissioner;

35 B. Tamper with or render inaccurate a monitoring device or method required by any
36 law or by any order, rule, license, permit, approval or decision of the board or
37 commissioner; or

38 C. Fail to comply with an information submittal required by the commissioner
39 pursuant to section 568, subsection 3 or section 1364, subsection 3.

1 A person who violates this subsection commits a Class E crime. Notwithstanding Title
2 17-A, section ~~1304~~ 1704, subsection 5, a fine for a violation of this subsection may not be
3 more than \$10,000.

4 **Sec. C-117. 38 MRSA §1316-M, sub-§4**, as amended by PL 2003, c. 452, Pt.
5 W, §10 and affected by Pt. X, §2, is further amended to read:

6 **4. Transporting without license or manifest; penalties.** A person who transports
7 scrap tires without a license or without a manifest as required by department rules
8 commits a Class E crime. Violation of this subsection is a strict liability crime as defined
9 in Title 17-A, section 34, subsection 4-A. The minimum fines for transporting scrap tires
10 without a license or without a manifest are as follows:

11 A. For a vehicle with a registered gross weight of up to 12,000 pounds, \$500;

12 B. For a vehicle with a registered gross weight of between 12,001 and 34,000
13 pounds, \$2,000; and

14 C. For a vehicle with a registered gross weight of over 34,000 pounds, \$4,500.

15 This minimum fine may not be suspended, but it may be reduced by the amount of the
16 disposal fee paid by the transporter for disposal of the truckload of tires at a licensed
17 waste facility. Notwithstanding Title 17-A, section ~~1304~~ 1704, the maximum fine under
18 this subsection is not more than \$10,000 per violation.

19 **Sec. C-118. 38 MRSA §1316-M, sub-§5**, as enacted by PL 2003, c. 452, Pt. W,
20 §11 and affected by Pt. X, §2, is amended to read:

21 **5. Transporting after summons or arrest.** A person who, after being issued a
22 summons or arrested for a violation of the license or manifest requirements, transports the
23 scrap tires to an unlicensed, nonexempt waste facility commits a Class D crime.
24 Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34,
25 subsection 4-A. Notwithstanding Title 17-A, ~~section 1304~~ sections 1704 and 1705, the
26 maximum fine under this subsection is not more than \$25,000 per violation.

27 **Sec. C-119. 38 MRSA §1319-T**, as amended by PL 1991, c. 548, Pt. A, §32, is
28 further amended to read:

29 **§1319-T. Criminal provisions**

30 In addition to being subject to civil penalties as provided by section 349, subsection 2
31 and to criminal penalties as provided in section 349, subsection 3, conduct described in
32 subsections 1 and 2 is subject to criminal penalties as follows.

33 **1. Penalty provisions.** Any person is guilty of a Class C crime and may be punished
34 accordingly if that person, with respect to any substance or material that has been
35 identified as hazardous waste by the board and that the person believes may be harmful to
36 human health or knows or has reason to know has been so identified, knowingly:

37 A. Transports any such substance or material without, in fact, having a proper license
38 or permit as may be required under this subchapter;

1 B. Transports any such substance or material to a waste facility knowing or
2 consciously disregarding a risk that such facility does not have a proper license or
3 permit as may be required under this subchapter;

4 C. Handles any such substance or material without, in fact, having obtained a proper
5 license or permit to do so as may be required under this subchapter; or

6 D. Handles any such substance or material at any location knowing or consciously
7 disregarding a risk that such location does not have a proper license or permit as may
8 be required under this subchapter for such treatment, storage or disposal.

9 Notwithstanding Title 17-A, section ~~1301~~ 1704, subsection ~~1, paragraph A-1~~ 3 or Title
10 17-A, section ~~1301~~ 1705, subsection ~~3, paragraph D~~ 4, the fine for such violation may not
11 exceed \$50,000 for each day of such violation. In a prosecution under paragraph B or D,
12 the conscious disregard of the risk, when viewed in light of the nature and purpose of the
13 person's conduct and the circumstances known to the person, must involve a gross
14 deviation from the standard of conduct that a reasonable and prudent person would
15 observe in the same situation.

16 **2. Class D crimes.** A person is guilty of a Class D crime if, with respect to any
17 substance or material that, in fact, has been identified as hazardous waste by the board
18 and that the person knows or has reason to believe has been so identified or may be
19 harmful to human health, that person knowingly:

20 A. Establishes, constructs, alters or operates any waste facility for any such
21 substance or material without, in fact, having obtained a proper license or permit as
22 may be required under this subchapter;

23 B. Handles or transports any substance or material identified as hazardous waste by
24 the board in any manner that violates the terms of any condition, order, rule, license,
25 permit, approval or decision of the board or commissioner with respect to the
26 handling or transporting of that substance or material; or

27 C. Gives custody or possession of any such substance or material to any other person
28 whom that person knows or has reason to believe:

29 (1) Does not have a license or permit to transport or handle such substance or
30 material as may be required under this subchapter; or

31 (2) Will transport or handle such substance or material in violation of this
32 subchapter or rules adopted under it.

33 A person who violates the provisions of this subsection may be punished accordingly,
34 except that, notwithstanding Title 17-A, section ~~1301~~ 1704, subsection ~~1, paragraph B, 4~~
35 or Title 17-A, section ~~1301~~ 1705, subsection ~~3, paragraph E~~ 5, the fine for such violation
36 may not exceed \$25,000 for each day of the violation.

37 **Emergency clause.** In view of the emergency cited in the preamble, this
38 legislation takes effect when approved.

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SUMMARY

This bill, which is submitted by the Criminal Law Advisory Commission, recodifies and revises the Maine Revised Statutes, Title 17-A, Part 3 and other portions of the Maine Criminal Code and amends other laws affected by this recodification and revision accordingly. The purpose of this bill is to reorganize certain portions of the Maine Criminal Code to be more logical and user-friendly while bringing the language into conformity with current drafting standards, clarifying current law and eliminating inconsistencies within Title 17-A. While much of the revision throughout this bill is intended to be technical in nature, the following changes are more substantive. This bill is an emergency measure.

PART A

Part A recodifies and revises the Maine Revised Statutes, Title 17-A, Part 3.

1. Chapter 61, General Sentencing Provisions, which is the current chapter 47:

A. Allows the court to accept a plea agreement between the attorney for the State and the defendant that provides for an agreed-upon authorized sentencing alternative, the imposition of which is deferred;

B. Specifies that, as with the Department of Corrections, the legal authority of jails to transfer individuals from one facility to another by agreement is not impaired by the provisions of chapter 61;

C. Subjects to forfeiture a firearm that constitutes the basis for a conviction of aggravated unlawful operation of a methamphetamine laboratory;

D. Clarifies that the maximum term of imprisonment for a Class D crime is less than one year; and

E. Requires that a court terminate probation, administrative release or supervised release if the court determines that the previously imposed sentence and the new sentence must be served consecutively.

2. Chapter 63, Sentences of Imprisonment, which is the current chapter 51:

A. Specifies that, in imposing a sentencing alternative that includes a term of imprisonment, the court is required to set a definite period of imprisonment;

B. Specifies the steps of the sentencing process the court must take in imposing a sentence for the crime of murder;

C. Specifies that the court must employ specific steps of the sentencing process when imposing a period of supervised release after imprisonment and determine the appropriate period of supervised release;

D. Specifies that no portion of a term of imprisonment for murder may be suspended;

E. Specifies that, unless the law that the individual is convicted of violating expressly provides that an authorized term of imprisonment may not be suspended and if the individual is eligible for probation or administrative release, a court may suspend the authorized term of imprisonment in whole or in part and accompany the suspension

1 with a period of probation or administrative release. The period of probation may not
2 exceed the maximum period of probation authorized for the crime, and the period of
3 administrative release may not exceed one year;

4 F. Clarifies that provisions regarding a previously imposed sentence when a new
5 sentence is to be served consecutively apply to administrative release as well as
6 probation;

7 G. Clarifies that when an individual is committed to a Department of Corrections
8 correctional facility the sentence commences on the date on which the individual is
9 received into the correctional facility designated as the place of confinement by the
10 Commissioner of Corrections or the commissioner's designee instead of designated
11 solely by the commissioner;

12 H. Does not retain the provision in current law prohibiting the court from
13 resentencing a defendant if the sentences are consecutive as a matter of law;

14 I. Includes administrative release in the provision prohibiting a court from imposing a
15 sentence of imprisonment, not wholly suspended, to be served consecutively with any
16 split sentence, or to any sentence including supervised release previously imposed or
17 imposed on the same date, if the net result would be to have the individual released
18 from physical confinement be on probation, administrative release or supervised
19 release for the first sentence and thereafter be required to serve an unsuspended term
20 of imprisonment on the 2nd sentence; and

21 J. Allows the court to rearrange the order of sentences.

22 3. Chapter 65, Fines, Fees, Assessments and Surcharges, gathers various provisions
23 regarding fines, fees, assessments and surcharges from throughout Part 3 into one
24 chapter. Specifically, chapter 65 does the following.

25 A. Subchapter 1, Fines, which is the current chapter 53:

26 (1) Requires the court, in imposing a sentencing alternative that includes a fine,
27 to set a specific amount of money;

28 (2) Collects the current statutory exceptions to the maximum fine amounts based
29 on the class of the crime and requires that the State plead and prove each of them.
30 The definition and sentence hearing procedure for the pecuniary gain exception
31 are also changed;

32 (3) Specifies that, for purposes of a default hearing, "convicted person" includes
33 an individual or individuals authorized to make disbursements from the assets of
34 a convicted organization;

35 (4) Subjects a person on administrative release to the provisions regarding
36 reporting of default and motions to revoke based on failure to pay a fine; and

37 (5) Treats the imposition of community service work for an unexcused default as
38 a stand-alone court sanction instead of as a sentencing alternative as under
39 current law.

40 B. Subchapter 2, Fees, Assessments and Surcharges, which is the current chapters 49,
41 54-B, 54-F and 54-G:

- 1 (1) Specifies that the provisions regarding failure to pay a county jail
2 reimbursement fee apply to a person on administrative release as well as on
3 probation;
- 4 (2) Changes the credit that an individual committed for nonpayment of a
5 reimbursement fee is given toward the payment of a reimbursement fee for each
6 day of confinement that the individual is in custody to not be less than \$25 or
7 more than \$100;
- 8 (3) Specifies that a court may impose other surcharges and assessments that are
9 outside the Maine Criminal Code; and
- 10 (4) Specifies that the authority of the Supreme Judicial Court to impose fees,
11 surcharges or assessments by administrative order or rule is not affected by the
12 provisions of chapter 65.
- 13 4. Chapter 67, Conditional Release, contains the provisions of law regarding
14 probation, administrative release, supervised release for sex offenders and deferred
15 disposition with the following changes.
- 16 A. Subchapter 1, Probation, which is the current chapter 49:
 - 17 (1) Requires the court in imposing a sentencing alternative under section 1502
18 that includes a period of probation to set a definite period of probation;
 - 19 (2) Authorizes any court to rearrange the order of sentences; and
 - 20 (3) Authorizes a probation officer to offer a person who has violated probation in
21 a noncriminal manner the option of participating in a public restitution program
22 or treatment program administered through a correctional facility or county jail
23 instead of commencing a probation revocation proceeding or residing at a county
24 jail or, as under current law, a correctional facility, for a period of time not
25 exceeding 90 days.
- 26 B. Subchapter 2, Administrative Release, which is the current chapter 54-G:
 - 27 (1) Allows a court to terminate a period of administrative release that would
28 delay commencement of a consecutive unsuspended term of imprisonment;
 - 29 (2) Requires the court, as a result of an administrative release revocation hearing,
30 to respecify the place of imprisonment for both the portion of previously
31 suspended sentence of imprisonment required to be served and any remaining
32 suspended portion if necessary to carry out the intent of section 1805, subsection
33 1, paragraph D; and
 - 34 (3) Does not retain the current provisions of law that specify a suspended
35 sentence with administrative release commences on the date the person goes into
36 actual execution of the sentence.
- 37 C. Subchapter 3, Supervised Release for Sex Offenders, which is the current chapter
38 50, authorizes a court to terminate a period of supervised release that would delay
39 commencement of a consecutive unsuspended term of imprisonment.
- 40 5. Chapter 71, Community Service Work, which is the current chapter 54-C:

1 A. Requires an individual who has been sentenced to perform a specified number of
2 hours of community service work and who is in danger of default for failing to
3 complete the work in the manner ordered by the court to request a modification to
4 avoid the default. The court may modify its prior order as to the time for completion,
5 the nature of the work to be performed or the entity for which the work is to be
6 performed; and

7 B. Specifies the process for a default proceeding for an individual who has been
8 sentenced to perform community service work who fails to complete the sentence,
9 including a reporting process to the court, a motion and hearing process to adjudicate
10 the default, which includes the right to counsel, and specific dispositional alternatives
11 available to the court both in the case of an unexcused default and an excused default.

12 6. Chapter 75, Victims' Rights, which is the current chapter 48, provides a definition
13 of "immediate family" of the victim.

14 7. Chapter 81, Administration of Imposed Sentences of Imprisonment, contains the
15 provisions of law regarding administration of imposed sentences of imprisonment,
16 including the place of commitment and calculations of deductions for time detained prior
17 to and after conviction, including discretionary deductions, and:

18 A. Establishes definitions of "jail" and "sentence of imprisonment" for purposes of
19 the chapter;

20 B. Establishes a section for provisions that apply generally to sentences of
21 imprisonment, such as deductions and how those deductions are applied to concurrent
22 and consecutive sentences;

23 C. Specifies that detention in a mental health institution is considered the same as
24 detention in a correctional facility, jail or local lockup for purposes of calculating
25 deductions;

26 D. Does not retain the current provision of law giving the attorney for the State the
27 right to be heard at the time of sentence and to recommend a specific sentence or
28 other disposition and requiring the court to consider any statements made by the
29 attorney for the State, along with all other appropriate factors, in determining the
30 sentence. It also does not retain the references to current chapter 48, Victims' Rights;

31 E. Clarifies that the restoration of certain deductions requires a determination that is
32 in the discretion of the chief administrative officer of the correctional facility or the
33 jail administrator; and

34 F. Requires that a person who is being detained for the conduct for which the
35 sentence is imposed receives credit for time detained in a mental health institute.

36 **PART B**

37 Part B makes changes to the current law to reflect the changes made in Part A,
38 including:

39 1. Adding new definitions of "concurrent sentence," "consecutive sentence,"
40 "individual," "jail" and "split sentence" for purposes of the Maine Criminal Code;

