

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1437

S. P. 515

In Senate, March 23, 1981

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Wood of York.

Cosponsor: Representative Murphy of Kennebunk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Curtail the Practice of Plea Bargaining.

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

17-A MRSA § 18 is enacted to read:

§ 18. Plea Negotiation Agreement

1. In general. In any criminal proceeding against an adult and any proceeding arising under this Title, the attorney for the State and the attorney for the defendant or the defendant when acting pro se shall not make any agreement that in return for a plea of guilty or nolo contendere:

A. The attorney for the State will recommend unconditional dismissal of the complaint or any count of it;

B. The attorney for the State will recommend conditional dismissal or conditional suspension of the complaint or any count of it;

C. The attorney for the State will file an information or indictment charging a specified crime; or

D. The attorney for the State will recommend a specified sentence.

2. Exceptions. Subsection 1 does not apply when the Attorney General or his designee determines that:

- A. A trial may prove especially damaging to the principal witness; or
 - B. A specified plea agreement is necessary to obtain valuable testimony.
3. **Judicial supervision.** Before accepting a plea of guilty or nolo contendere, the court shall determine by personally addressing the attorney for the State, the attorney for the defendant, and the defendant, in open court, that the plea is the product of the defendant's free choice and not the result of any plea agreement, except as provided in subsection 2.
4. **Sanctions.** Failure by any person to comply with this section may be deemed to be contempt of the court in which the case is pending.

STATEMENT OF FACT

This bill is designed to eliminate plea bargaining in most situations. The plea bargaining process, although long accepted in this State, leads to inequities in the judicial system. It is the intent of this legislation to eliminate possible incentives for prosecutors to inappropriately charge defendants. It is expected that by allowing judges more discretion in the sentencing of defendants, sentences will be more equitable and public confidence in the criminal justice system will be strengthened. Bargaining sentences down from the publicly endorsed punishment defeats the intent of the legislature.