

MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 1196

H.P. 916 House of Representatives, March 15, 1983

On Motion of Representative Carter of Winslow, referred to the
Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Connolly of Portland.
Cosponsor: Senator Carpenter of Aroostook.

STATE OF MAINE

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

**AN ACT to Create a Maine Sentencing
Guidelines Commission.**

Emergency preamble. Whereas, Acts of the Legis-
lature do not become effective until 90 days after
adjournment unless enacted as emergencies; and

Whereas, the issue of appropriate sentencing of
and sentencing alternatives for persons convicted of
crimes is of substantial importance to the people of
this State; and

Whereas, current sentencing practices are not
uniform producing disparate results; and

Whereas, this bill establishes a commission to
recommend improvements upon this situation and any
necessary legislation to the Second Regular Session
of the 111th Legislature; and

1 Whereas, unless enacted as an emergency the com-
2 mission to be established will not have sufficient
3 time to conduct a proper study; and

4 Whereas, in the judgment of the Legislature,
5 these facts create an emergency within the meaning of
6 the Constitution of Maine and require the following
7 legislation as immediately necessary for the preser-
8 vation of the public peace, health and safety; now,
9 therefore,

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

12 **Sec. 1. Purpose and findings.** The Legislature
13 finds that appropriate sentencing of persons convic-
14 ted of crimes, including the imposition of alter-
15 native sentences and probation, is of substantial
16 importance to the people of this State in that appro-
17 priate sentencing reflects the proper balancing of
18 punishment, deterrence, public protection and reha-
19 bilitation, the cornerstones of our penal system. The
20 Legislature further finds that disparate sentences
21 for similar crimes by similarly situated defendants
22 continue to occur and undermine the principles of the
23 penal system. It is the Legislature's purpose to cre-
24 ate a commission to study and recommend sentencing
25 guidelines to better enable the Maine judiciary to
26 properly fulfill their responsibilities at the sen-
27 tencing stage of the criminal justice system.

28 **Sec. 2. Establishment of commission.** There is
29 created the Maine Sentencing Guidelines Commission
30 which shall be comprised of 11 members, including:
31 The Chief Justice of the Supreme Judicial Court or
32 his designee; a District Court Judge, recommended by
33 the Chief Judge of the District Court and approved by
34 the Chief Justice; a Superior Court Justice approved
35 by the Chief Justice; a criminal defense attorney
36 recommended by the Maine Bar Association and approved
37 by the joint standing committee of the Legislature
38 having jurisdiction over judiciary; a District Attor-
39 ney recommended by the Attorney General and approved
40 by the joint standing committee of the Legislature
41 having jurisdiction over judiciary; the Commissioner
42 of Corrections or his designee; a representative of

1 the Corrections Advisory Committee; a representative
2 from the Maine Sheriff's Association; a public member
3 to be chosen at random from voter registration lists
4 and approved by the joint standing committee of the
5 Legislature having jurisdiction over judiciary; and a
6 member of the public representing victims of crime
7 and a member of the public representing exresidents
8 of penal institutions, both of whom shall be approved
9 by the joint standing committee of the Legislature
10 having jurisdiction over judiciary.

11 Members are to serve for the duration of the
12 111th Legislature. Vacancies shall be filled for the
13 unexpired portion of the term of the member being
14 replaced.

15 **Sec. 3. Study of sentencing practices; recom-**
16 **mendation of sentencing guidelines.**

17 1. Scope of investigation. The Maine Sentencing
18 Guidelines Commission shall investigate sentencing
19 practices in this State and shall make recommenda-
20 tions of sentencing guidelines in accordance with the
21 following criteria:

22 A. The guidelines shall be for Class A, Class B
23 and Class C crimes;

24 B. The circumstances under which imprisonment of
25 an offender is proper;

26 C. Appropriate presumptive, fixed sentences for
27 offenders for whom imprisonment is proper, based
28 on each appropriate combination of reasonable
29 offense and offender characteristics. The guide-
30 lines may provide for an increase or decrease of
31 up to 15% in the presumptive, fixed sentence;

32 D. Appropriate sanctions for offenders for whom
33 imprisonment is not proper, including, but not
34 limited to, the following noninstitutional sanc-
35 tions: Payment of fines, day fines, restitution,
36 community work orders, work-release programs in
37 local facilities, community-based residential and
38 nonresidential programs, incarceration in a local
39 correctional facility and probation and the con-
40 ditions thereof;

1 E. Similar sentencing guidelines adopted in other
2 states; and

3 F. Such other matters and considerations as the
4 Maine Sentencing Guidelines Commission shall deem
5 appropriate in providing to the Legislature a
6 full and accurate picture of the subject matter
7 of sentencing and sentencing alternatives.

8 In establishing the sentencing guidelines, the com-
9 mission shall take into substantial consideration
10 current sentencing and release practices and correc-
11 tional resources, including, but not limited to, the
12 capacities of local and state correctional facili-
13 ties.

14 The commission may solicit reports, data and other
15 assistance from the Criminal Law Revision Commission.
16 The commission may also seek the assistance of any
17 other persons or organizations.

18 The commission shall meet as often as necessary to
19 fulfill its mandate and shall provide for publicized
20 public hearings to garner maximum public participa-
21 tion in its decision making.

22 **Sec. 4. Compensation.** Each member of the commis-
23 sion not an employer of the State shall be allowed
24 the sum of \$40 a day plus his necessary traveling
25 expenses for actual attendance at commission meetings
26 or proceedings.

27 **Sec. 5. Staff and facilities.** The commission may
28 employ a research director who shall perform the
29 duties the commission directs, including the hiring
30 of any clerical help and other employees the commis-
31 sion may require. The research director and other
32 staff shall be in the unclassified service of the
33 State and their salary shall be established by the
34 commission.

35 The Department of Attorney General shall provide
36 adequate office space and administrative services for
37 the commission for which the department shall be
38 reimbursed. The commission may also utilize, with
39 their consent, services, equipment, personnel and
40 information and resources of other state agencies;

1 and may accept voluntary and uncompensated services,
2 contract with individuals, public and private agen-
3 cies, and request information, reports and data from
4 any agency in the State or any of its political sub-
5 divisions, to the extent authorized by law.

6 **Sec. 6. Additional funds.** When any person, cor-
7 poration, the Federal Government or any other entity
8 offers funds to the Maine Sentencing Guidelines Com-
9 mission to carry out its purposes and duties, the
10 commission may accept the offer by majority vote and,
11 upon acceptance, the chairman shall receive the funds
12 subject to the terms of the offer, but no money may
13 be accepted or received as a loan nor may any
14 indebtedness be incurred, except in the manner and
15 under the limitations otherwise provided by law.

16 **Sec. 7. Report on findings and recommendations.**
17 The Maine Sentencing Guidelines Commission shall com-
18 plete the study and report its findings and recom-
19 mendations and any necessary implementing legislation
20 on or before January 5, 1984, to the Second Regular
21 Session of the 11th Legislature. This report shall
22 address each of the matters set forth in this section
23 and shall include proposed legislation in proper
24 draft form to be enacted by the Legislature to effec-
25 tuate the course of action that the commission may
26 recommend in its report.

27 **Sec. 8. Appropriation.** The following funds are
28 appropriated from the General Fund to carry out the
29 purposes of this Act.

30		<u>1983-84</u>
31	<u>MAINE SENTENCING</u>	
32	<u>GUIDELINES COMMISSION</u>	
33	Positions	(1 1/2)
34	Personal Services	\$15,000
35	All Other	<u>3,000</u>
36	Total	\$18,000

37 **Emergency clause.** In view of the emergency
38 cited in the preamble, this Act shall take effect
39 when approved.

1 STATEMENT OF FACT

2 This bill establishes a commission to recommend
3 sentencing guidelines in order to reduce disparity in
4 sentencing and to establish just, uniform sentencing
5 practices throughout the State in terms of length of
6 incarceration as well as incarceration versus proba-
7 tion. In developing the guidelines, the commission is
8 to examine appropriate combinations of reasonable
9 offender and offense characteristics, giving substan-
10 tial consideration to current sentencing and releas-
11 ing practices and to available correctional
12 resources.

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