

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 916, L.D. 1196)

FIRST REGULAR SESSION

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ONE HUNDRED AND ELEVENTH LEGISLATURE

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Legislative Document

No. 1684

H.P. 1270

House of Representatives, May 24, 1983

Reported by Representative Drinkwater from the Committee on Judiciary  
and printed under Joint Rule 2.

Original bill presented by Representative Connolly of Portland.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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

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AN ACT to Create a Maine Sentencing  
Guidelines Commission.

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

Sec. 1. Purpose and findings. The Legislature finds that appropriate sentencing of persons convicted of crimes, including the imposition of alternative sentences and probation, is of substantial importance to the people of this State in that appropriate sentencing reflects the proper balancing of punishment, deterrence, public protection and rehabilitation, the cornerstones of our penal system. The Legislature further finds that disparate sentences for similar crimes by similarly situated defendants continue to occur and undermine the principles of the penal system. It is the Legislature's purpose to create a commission to study and recommend sentencing guidelines to better enable the Maine judiciary to

1 properly fulfill their responsibilities at the sen-  
2 tencing stage of the criminal justice system.

3       **Sec. 2. Establishment of commission.** There is  
4 created the Maine Sentencing Guidelines Commission  
5 which shall be comprised of 9 members, including the  
6 State Court Administrator or his designee, a criminal  
7 defense attorney recommended by the Maine Bar Associ-  
8 ation and approved by the joint standing committee of  
9 the Legislature having jurisdiction over judiciary, a  
10 District Attorney recommended by the Attorney General  
11 and approved by the joint standing committee of the  
12 Legislature having jurisdiction over judiciary, the  
13 Commissioner of Corrections or his designee, a repre-  
14 sentative of the Corrections Advisory Committee, 2  
15 members of the joint standing committee of the Legis-  
16 lature having jurisdiction over judiciary to be  
17 appointed by the President of the Senate and the  
18 Speaker of the House and 2 members of the public to  
19 be appointed by the Governor.

20       Members are to serve for the duration of the  
21 111th Legislature. Vacancies shall be filled for the  
22 unexpired portion of the term of the member being  
23 replaced.

24       **Sec. 3. Study of sentencing practices; recom-**  
25 **mendation of sentencing guidelines.**

26       1. Scope of investigation. The Maine Sentencing  
27 Guidelines Commission shall investigate sentencing  
28 practices in this State and shall make recommenda-  
29 tions of sentencing guidelines in accordance with the  
30 following criteria:

31       A. The guidelines shall be for Class A, Class B  
32 and Class C crimes;

33       B. The circumstances under which imprisonment of  
34 an offender is proper;

35       C. Appropriate presumptive fixed sentences for  
36 offenders for whom imprisonment is proper, based  
37 on each appropriate combination of reasonable  
38 offense and offender characteristics. The guide-  
39 lines may provide for an increase or decrease of  
40 up to 15% in the presumptive fixed sentence;

1 D. The commission shall address appropriate  
2 sanctions for offenders for whom imprisonment is  
3 not proper, including, but not limited to, the  
4 following noninstitutional sanctions: Payment of  
5 fines; day fines; restitution; community work  
6 orders; work-release programs in local facili-  
7 ties; community-based residential and nonresiden-  
8 tial programs; incarceration in a local correc-  
9 tional facility; and probation and the conditions  
10 thereof;

11 E. The commission shall address the appropriate-  
12 ness of statutory or constitutional changes to  
13 facilitate expanded judicial authority for post-  
14 conviction resentencing or modification of sen-  
15 tence;

16 F. The commission shall address the appropriate-  
17 ness of expanded judicial discretion to sentence  
18 to intermediate correctional facilities; and

19 G. Such other matters and considerations as the  
20 Maine Sentencing Guidelines Commission shall deem  
21 appropriate in providing to the Legislature a  
22 full and accurate picture of the subject matter  
23 of sentencing and sentencing alternatives.

24 In establishing the sentencing guidelines, the  
25 commission shall take into substantial consideration  
26 current sentencing and release practices and correc-  
27 tional resources, including, but not limited to, the  
28 capacities of local and state correctional facili-  
29 ties.

30 The commission may solicit reports, data and  
31 other assistance from the Criminal Law Revision Com-  
32 mission. The commission may also seek the assistance  
33 of any other persons or organizations.

34 The commission shall meet as often as necessary  
35 to fulfill its mandate and shall provide for publi-  
36 cized public hearings to garner maximum public parti-  
37 cipation in its decision making.

38 **Sec. 4. Compensation.** Each member of the com-  
39 mission not an employee of the State shall be allowed  
40 the sum of \$40 a day plus his necessary traveling

1 expenses for actual attendance at commission meetings  
2 or proceedings.

3       **Sec. 5. Staff and facilities.** The commission may  
4 employ a research director who shall perform the  
5 duties which the commission directs, including the  
6 hiring of any clerical help and other employees the  
7 commission may require. The research director and  
8 other staff shall be in the unclassified service of  
9 the State and their salaries shall be established by  
10 the commission.

11       The Department of Attorney General shall provide  
12 adequate office space and administrative services for  
13 the commission for which the department shall be  
14 reimbursed. The commission may also utilize services,  
15 equipment, personnel, information and resources of  
16 other state agencies, with their consent; and may ac-  
17 cept voluntary and uncompensated services, contracts  
18 with individuals, public and private agencies, and  
19 request information, reports and data from any agency  
20 in the State or any of its political subdivisions, to  
21 the extent authorized by law.

22       **Sec. 6. Additional funds.** When any person, cor-  
23 poration, the Federal Government or any other entity  
24 offers funds to the Maine Sentencing Guidelines Com-  
25 mission to carry out its purposes and duties, the  
26 commission may accept the offer by majority vote and,  
27 upon acceptance, the chairman shall receive the funds  
28 subject to the terms of the offer, but no money may  
29 be accepted or received as a loan nor may any  
30 indebtedness be incurred, except in the manner and  
31 under the limitations otherwise provided by law.

32       **Sec. 7. Report on findings and recommendations.**  
33 The Maine Sentencing Guidelines Commission shall com-  
34 plete the study and report its findings and recom-  
35 mendations with respect to the criteria indicated in  
36 section 3 on or before January 5, 1984, to the Second  
37 Regular Session of the 111th Legislature. The report  
38 shall also include, in proper draft form, any sug-  
39 gested implementing legislation or amendment to the  
40 Constitution of Maine proposed to implement the com-  
41 mission recommendations.

