

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1959

6
7 S.P. 713

In Senate, January 19, 1984

8 Reference to the Committee on Judiciary is suggested. Ordered printed
9 and sent down for concurrence.

JOY J. O'BRIEN, Secretary of the Senate

10 Presented by Senator Conley of Cumberland.

Cosponsors: Representative Kelleher of Bangor, Representative Joseph of Waterville and Representative Soule of Westport.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT Relating to Sentencing and
18 Prison Overcrowding.
19

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

22 34-A MRSA c. 3, sub-c. I, Art. IV is enacted to
23 read:

24 ARTICLE IV

25 SENTENCING AND PRISON OVERCROWDING

26 §3081. Definitions

27 As used in this Article, unless the context oth-
28 erwise indicates, the following terms have the fol-
29 lowing meanings.

30 1. Prison population. "Prison population" means
31 all persons committed to the Department of Correc-

1 tions by the courts, including those persons commit-
2 ted to specific institutions prior to January 15,
3 1984.

4 2. Rated design capacity. "Rated design capaci-
5 ty" means the actual available bed space in correc-
6 tional facilities operated by the department subject
7 to applicable federal and state laws and rules.

8 §3082. Declaration of prison overcrowding state of
9 emergency

10 Whenever the prison population exceeds the rated
11 design capacity for 30 consecutive days, the commis-
12 sioner shall request the Governor to declare a state
13 of emergency to exist. In making the request, the
14 commissioner shall certify the rated design capacity,
15 the numbers by which that capacity is exceeded and
16 that all administrative actions consistent with law
17 and administrative rule have been exhausted in an at-
18 tempt to reduce the prison population.

19 1. Time for declaration, reduction of sentences.
20 Unless the Governor finds within 15 calendar days of
21 the request that the commissioner acted in error, he
22 shall declare a prison overcrowding state of emergen-
23 cy and the sentences of all prisoners who are within
24 one year of release, who are incarcerated for
25 nonviolent offenses and who have been sentenced to
26 serve a term of one year or more shall be reduced by
27 90 days.

28 2. Deferred acceptance of certain offenders. If
29 the actions provided for in subsection 1 do not re-
30 duce the prison population to 95% of the rated design
31 capacity within 30 days of the date of the declara-
32 tion of the prison overcrowding emergency, the de-
33 partment shall accept for incarceration offenders
34 sentenced to prison by the courts of this State as
35 follows.

36 A. All offenders sentenced for crimes with a
37 penalty of 6 years or more shall be accepted for
38 incarceration.

39 B. All offenders convicted of violent or as-
40 saultive crimes, sex offenses, escapes from pris-

1 on or jail, trafficking in scheduled drugs or
2 weapons' offenses shall be accepted for incarceration
3 without regard to length of sentence.

4 Acceptance of all other offenders shall be deferred
5 pending rescission of the prison overcrowding state
6 of emergency.

7 3. Further reduction in sentences. If the ac-
8 tions of subsections 1 and 2 do not reduce the prison
9 population to 95% of rated bed capacity within 6
10 months of the date of the prison overcrowding emer-
11 gency, subsection 2 shall remain in effect and the
12 sentences of all prisoners who are within one year of
13 release, who have been incarcerated for nonviolent
14 offenses and who have been sentenced to serve a term
15 of one year or more shall be reduced by 90 days.

16 4. Rescinding state of emergency. If at any
17 time during the state of emergency the prison popula-
18 tion is reduced to 95% of the systems rated design
19 capacity, the commissioner shall certify that fact to
20 the Governor and request that the Governor rescind
21 the state of emergency.

22 5. Time for rescinding state of emergency. Un-
23 less the Governor finds within 15 calendar days that
24 the commissioner has acted in error in his request
25 for rescission of the state of emergency, he shall
26 declare the prison overcrowding state of emergency
27 ended.

28 STATEMENT OF FACT

29 Under current law, the Department of Corrections
30 is required to accept for incarceration all persons
31 sentenced by judges of this State and the department
32 is further required to continue incarceration for the
33 duration of the offender's sentence.

34 Under this mandate, the department is further re-
35 quired to provide for the control and care of prison-
36 ers in a manner that is consistent with constitution-
37 al standards, as provided for in both the Constitu-
38 tion of the United States and Constitution of Maine
39 and interpreted by the United States Supreme Court.

1 Since 1981, Maine's prisons have been overcrowd-
2 ed. During these past 2 years, the prison capacity
3 has ranged between 837 and 877 beds while the prison
4 population has ranged from 837 to 930 and it is still
5 growing, with an estimated 1992 population of 1,244
6 under current statutes and trends. This represents a
7 prison system operating at a 140% overcrowding level
8 by 1992. This overcrowding has forced the Department
9 of Corrections to house prisoners in county jails, in
10 federal prisons and in areas not designed for hous-
11 ing, e.g., treatment and recreation area.

12 Prison tension in many states has led to riots
13 and disturbances, and judicial intervention via a
14 federal court order generally establishes conditions
15 that shall be met by the State within a specified pe-
16 riod of time, regardless of cost involved or the
17 state's ability to meet that cost.

18 The costs of this situation and these conditions
19 to the citizens of the State, both in human suffering
20 and dollars and cents, are intolerable.

21 Significant numbers of prisoners in the Maine
22 State Prison system are nonviolent offenders who may
23 be able to live in the community without danger to
24 its citizens.

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