

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 2189

7 H.P. 1659

House of Representatives, March 6, 1984

8 Submitted by the Department of Corrections pursuant to Joint Rule 24.  
9 Reference to the Committee on Judiciary is suggested and ordered  
printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Joyce of Portland.

Cosponsors: Representative Carroll of Gray and Representative  
Drinkwater of Belfast.

11  
12 STATE OF MAINE  
13

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

17 AN ACT to Amend Provisions Relating to  
18 Violation of Probation or Parole.  
19

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

22 Sec. 1. 17-A MRSA §15, sub-§1, ¶A, as amended by  
23 PL 1983, c. 450, §1, is further amended to read:

24 A. Any person who he has probable cause to be-  
25 lieve has committed or is committing:

26 (1) Murder;

27 (2) Any Class A, Class B or Class C crime;

28 (3) Assault while hunting;

29 (4) Any offense defined in chapter 45;

1 (5) Assault, if the officer reasonably be-  
2 lieves that the person may cause injury to  
3 others unless immediately arrested;

4 (5-A) Assault, criminal threatening,  
5 terrorizing or reckless conduct, if the of-  
6 ficer reasonably believes that the person  
7 and the victim are family or household mem-  
8 bers, as defined in Title 15, section 301;

9 (6) Theft as defined in section 357, when  
10 the value of the services is \$1,000 or less,  
11 if the officer reasonably believes that the  
12 person will not be apprehended unless imme-  
13 diately arrested;

14 (7) Forgery, if the officer reasonably be-  
15 lieves that the person will not be appre-  
16 hended unless immediately arrested; ~~or~~

17 (8) Negotiating a worthless instrument, if  
18 the officer reasonably believes that the  
19 person will not be apprehended unless imme-  
20 diately arrested; and or

21 (9) A violation of a condition of his pro-  
22 bation; and

23 Sec. 2. 34-A MRSA §5404, sub-§3, as enacted by  
24 PL 1983, c. 459, §6, is amended to read:

25 3. Supervision. Supervise persons as follows:

26 A. Supervise the probation or parole of each  
27 person placed under his supervision;

28 B. Supervise persons released from a correction-  
29 al facility under section 3035, if the chief ad-  
30 ministrative officer of the facility requests the  
31 supervision and the director agrees to the super-  
32 vision; and

33 C. Keep informed of the conduct and condition of  
34 each person placed under his supervision and use  
35 suitable methods to encourage him to improve his  
36 conduct and condition; and

1           D. With the approval of the commissioner, dele-  
2           gate his responsibility to warn persons interfer-  
3           ing with a probationer or parolee to a district  
4           supervisor.

5           Sec. 3. 34-A MRSA §9861, as enacted by PL 1983,  
6           c. 459, §6, is amended to read:

7           §9861. Preliminary hearing required, detention

8           Where supervision of a parolee or probationer is  
9           being administered pursuant to Articles I and II, the  
10          appropriate judicial or administrative authorities in  
11          this State shall notify the compact administrator of  
12          the sending state whenever, in their view, considera-  
13          tion should be given to retaking or reincarceration  
14          for a parole or probation violation. ~~Prior to the~~  
15          ~~giving of any such notification,~~ a A hearing shall be  
16          held in accordance with this chapter within a reason-  
17          able time, unless such hearing is waived by the pa-  
18          rolee or probationer. The appropriate officer or of-  
19          ficers of this State shall as soon as practicable,  
20          following termination of any such hearing, report to  
21          the sending state, furnish a copy of the hearing  
22          record and make recommendations regarding the dispo-  
23          sition to be made of the parolee or probationer by  
24          the sending state. Pending any proceeding pursuant  
25          to this chapter, the appropriate officers of this  
26          State may take custody of and detain the parolee or  
27          probationer involved for a period not to exceed 15  
28          days prior to the hearing and, if it appears to the  
29          hearing officer or officers that retaking or  
30          reincarceration is likely to follow, for such reason-  
31          able period after the hearing or waiver as may be  
32          necessary to arrange for the retaking or  
33          reincarceration.

1 STATEMENT OF FACT

2 Currently some law enforcement officers are un-  
3 willing to arrest a probation violator at the request  
4 of a probation officer. Section 1 of this bill makes  
5 it clear that law enforcement officers have the au-  
6 thority to arrest persons violating conditions of  
7 probation.

8 Section 3 of this bill will enable Maine offi-  
9 cials to review the feasibility of proceedings to vi-  
10 olate an out-of-state probationer or parolee with of-  
11 ficials of the sending state prior to initiating the  
12 proceeding. The current statute requires the hearing  
13 to be held before Maine officials can contact offi-  
14 cials from the sending state. Once contact has been  
15 made, the sending state, for a variety of reasons,  
16 sometimes declines to return the probation or parole  
17 violator. Thus, the State has held a hearing need-  
18 lessly and, often, the probation or parole violator  
19 has been held in custody unnecessarily. Deletion of  
20 the phrase will afford a more realistic approach to  
21 the issue of interstate violation proceedings. When  
22 a person is interfering with probation or parole, the  
23 current statute requires the director to warn the in-  
24 dividual in writing. Title 34-A, section 5003. Of-  
25 ten times the director is unable to quickly get a  
26 written document to the person interfering with pro-  
27 bation and parole. An ability to delegate that re-  
28 sponsibility to a field supervisor would make notifi-  
29 cation to such persons easier. Prompt notification  
30 would also be in the best interest of the person on  
31 parole or probation.

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