

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (New Draft of H.P. 1539, L.D.2024)

3 SECOND REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 2216

8
9 H.P. 1680

House of Representatives, March 12, 1984

10 Reported by Representative Soule from the Committee on Judiciary and
11 printed under Joint Rule 2.

12 Original bill presented by Representative Manning of Portland.

EDWIN H. PERT, Clerk

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FOUR
18

19 AN ACT to Amend Calculation of Period
20 of Imprisonment.
21

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

25 Whereas, in the First Regular Session, the Legis-
26 lature enacted legislation concerning the sentencing
27 of convicted persons; and

28 Whereas, questions have arisen as to whether a
29 court must now commit convicted persons to the De-
30 partment of Corrections rather than sentencing them
31 to a particular institution; and

32 Whereas, this change may have neglected to pre-
33 serve the option for the court to sentence to impris-
34 onment in a county jail; and

1 Whereas, this change has also created some admin-
2 istrative problems in delivering prisoners; and

3 Whereas, the statutes should be clarified to rem-
4 edy these impediments to the efficient use of judi-
5 cial sentencing powers and the placement of unneces-
6 sary burdens on the Department of Corrections; and

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

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

15 Sec. 1. 17-A MRSA §1203, sub-§1, as amended by
16 PL 1983, c. 268, §1, is further amended to read:

17 1. The court may sentence a person to a term of
18 imprisonment, not to exceed the maximum term autho-
19 rized for the crime, an initial portion of which
20 shall be served and the remainder of which shall be
21 suspended. ~~The imprisonment for the initial~~
22 ~~unsuspended portion of the term may be at a different~~
23 ~~institution from that specified for the suspended~~
24 ~~portion.~~ As to both the initial unsuspended portion
25 and the suspended portion, the sentence of the court
26 shall specify the place of imprisonment if that place
27 is to be a county jail, otherwise the court shall
28 commit the person to the Department of Corrections.
29 The period of probation shall commence on the date
30 the person is released from his initial unsuspended
31 portion of the term of imprisonment, unless the court
32 orders that it shall commence on an earlier date. If
33 the period of probation is to commence upon release
34 from the initial unsuspended portion of the term of
35 imprisonment, the court may nonetheless revoke proba-
36 tion for any criminal conduct committed during that
37 initial period of imprisonment.

38 Sec. 2. 17-A MRSA §1203, sub-§2-A is enacted to
39 read:

1 2-A. In any prosecution for a crime committed
2 prior to September 23, 1983, the court may, with the
3 consent of the defendant, impose sentence under sub-
4 section 1.

5 Sec. 3. 17-A MRSA §1251, as repealed and re-
6 placed by PL 1983, c. 581, §3, is repealed and the
7 following enacted in its place:

8 §1251. Imprisonment for murder

9 A person convicted of the crime of murder shall
10 be sentenced to imprisonment for life or for any term
11 of years that is not less than 25. The sentence of
12 the court shall specify the length of the sentence to
13 be served and shall commit the person to the Depart-
14 ment of Corrections.

15 Sec. 4. 17-A MRSA §1252, sub-§1, as repealed and
16 replaced by PL 1983, c. 581, §4, is amended to read:

17 1. In the case of a person convicted of a crime
18 other than murder, the court may sentence to impris-
19 onment for a definite term as provided for in this
20 section, unless the statute which the person is con-
21 victed of violating expressly provides that the fine
22 and imprisonment penalties it authorizes may not be
23 suspended, in which case the convicted person shall
24 be sentenced to imprisonment and required to pay the
25 fine authorized therein. The sentence of the court
26 shall specify the term to be served and the place of
27 imprisonment if that place is to be a county jail,
28 otherwise the court shall commit the person to the
29 Department of Corrections.

30 Sec. 5. 17-A MRSA §1257, as enacted by PL 1983,
31 c. 581, §5, is repealed.

32 Sec. 6. 17-A MRSA 1258 is enacted to read:

33 §1258. Notification of commitments to the Department
34 of Corrections

35 At the time of sentencing, the sheriff shall no-
36 tify the Commissioner of Corrections that a person
37 has been committed to the Department of Corrections
38 and shall inquire as to the correctional facility to

1 Section 3 repeals and replaces the provision con-
2 cerning imprisonment for murder. Last year that sec-
3 tion was revised to make it consistent with the
4 change from sentencing of convicted persons to par-
5 ticular state correctional institutions, to commit-
6 ment of these persons to the Department of Correc-
7 tions for placement in an appropriate facility. The
8 revised provision failed to use the correct terminol-
9 ogy, referring to sentencing to the Department of
10 Corrections rather than commitment. Section 3 cor-
11 rects that problem.

12 Section 4 amends a provision concerning sentenc-
13 ing a person for crimes other than murder. This pro-
14 vision was recently revised to implement the change
15 from sentencing to particular state correctional in-
16 stitutions, to commitment to the Department of Cor-
17 rections. This revision neglected to preserve the
18 court's option to sentence convicted persons to coun-
19 ty jails. This new draft corrects that omission.

20 Section 5 repeals one version of Title 17-A, sec-
21 tion 1257. Two sections 1257 were inadvertently en-
22 acted last year. The substance of the section re-
23 pealed is reenacted as Title 17-A, section 1258, in
24 section 6 of this new draft.

25 Section 6 reenacts the substance of the provision
26 repealed in section 5 with one change. The current
27 law requires the court to notify the Department of
28 Corrections when a person is sentenced to the depart-
29 ment. The Department of Corrections has had discus-
30 sions with various Justices of the Superior Court re-
31 garding this requirement. It has been determined
32 that it is more expedient for the sheriff to contact
33 the Department of Corrections as it is the sheriff's
34 responsibility to transport prisoners to the desig-
35 nated institution. This new draft makes this change.
36 The remaining language is the same as the current
37 law.

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