

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 479

7 H.P. 359

House of Representatives, February 8, 1985

8 On Motion of Representative Kane of S. Portland, referred to the
9 Committee on Judiciary. Sent up for concurrence and ordered printed.
Ordered sent forthwith.

EDWIN H. PERT, Clerk

10 Presented by Representative Hayden of Durham.

Cosponsored by Representative Paradis of Augusta, Representative Kane
11 of S. Portland and Representative Drinkwater of Belfast.

12 STATE OF MAINE
13

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

17 AN ACT to Create a Maine Sentencing
18 Guidelines Commission.
19

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

22 Sec. 1. Purpose and findings. The Legislature
23 finds that appropriate sentencing of persons convicted
24 of crimes, including the imposition of alternative
25 sentences and probation, is of substantial importance
26 to the people of this State in that appropriate sentencing
27 reflects the proper balancing of punishment,
28 deterrence, public protection and rehabilitation, the
29 cornerstones of our penal system. The Legislature
30 further finds that disparate sentences for similar
31 crimes by similarly situated defendants continue to
32 occur and undermine the principles of the penal system.
33 The One Hundred and Eleventh Legislature created
34 a commission to study and recommend sentencing
35 guidelines to better enable the Maine judiciary to
36 properly fulfill their responsibilities at the sen-

1 tencing stage of the criminal justice system. It is
2 the Legislature's purpose to continue the study un-
3 dertaken by that commission.

4 **Sec. 2. Establishment of commission.** There is
5 created the Maine Sentencing Guidelines Commission
6 which shall be comprised of 8 members, including the
7 Commissioner of Corrections or his designee; 2 mem-
8 bers of the joint standing committee of the Legisla-
9 ture having jurisdiction over judiciary to be ap-
10 pointed by the President of the Senate and the Speak-
11 er of the House of Representatives; a criminal de-
12 fense attorney; a district attorney; 2 members of the
13 public to be appointed by the Governor; and the At-
14 torney General or his designee. In addition, the Su-
15 preme Court Justice, a Superior Court Justice and a
16 District Court Judge, to be appointed by the Chief
17 Justice of the Supreme Judicial Court, shall serve in
18 an advisory capacity to the commission.

19 Members shall be appointed in January, 1985, and
20 shall serve for the duration of the 112th Legisla-
21 ture. Vacancies shall be filled for the portion of
22 the term of the member being replaced.

23 **Sec. 3. Study of sentencing practices; recommen-**
24 **dation of sentencing guidelines.**

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

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

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

34 C. Appropriate advisory sentencing guidelines
35 for offenders for whom imprisonment is proper,
36 based on each appropriate combination of reason-
37 able offense and offender characteristics. The
38 guidelines may provide for an increase or de-
39 crease of up to 15% in the base 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 or-
6 ders; work-release programs in local facilities;
7 community-based residential and nonresidential
8 programs; incarceration in a local correctional
9 facility; and probation and the conditions there-
10 of;

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;

19 G. The commission shall address the need for a
20 system to monitor the application of the advisory
21 sentencing guidelines and the most effective sys-
22 tem to accomplish that function; and

23 H. Such other matters and considerations as the
24 Maine Sentencing Guidelines Commission shall deem
25 appropriate in providing to the Legislature a
26 full and accurate picture of the subject matter
27 of sentencing and sentencing alternatives.

28 2. Sentencing guidelines. In establishing the
29 sentencing guidelines, the commission shall take into
30 substantial consideration current sentencing, release
31 practices and correctional resources, including, but
32 not limited to, the capacities of local and state
33 correctional facilities.

34 The commission may solicit reports, data and oth-
35 er assistance from the Criminal Law Revision Commis-
36 sion. The commission may also seek the assistance of
37 any other persons or organizations.

38 The commission shall meet as often as necessary
39 to fulfill its mandate and shall provide for publi-
40 cized public hearings to garner maximum public par-

1 ticipation in its decision making.

2 **Sec. 4. Compensation.** Each member of the com-
3 mission not an employee of the State shall be allowed
4 the sum of \$50 a day plus his necessary traveling ex-
5 penses for actual attendance at commission meetings
6 or proceedings.

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

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

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

36 **Sec. 7. Report on findings and recommenda-**
37 **tions.** The Maine Sentencing Guidelines Commission
38 shall make a final report of its findings and recom-
39 mendations with respect to the criteria indicated in
40 section 3 on or before January 5, 1986, to the Second
41 Regular Session of the 112th Legislature. The report
42 shall also include, in proper draft form, any sug-

gested implementing legislation or amendment to the Constitution of Maine proposed to implement the commission recommendations.

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

1985-86

MAINE SENTENCING
GUIDELINES COMMISSION

Personal Services	\$1,200
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All Other	3,800
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Total	\$5,000
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STATEMENT OF FACT

The 111th Legislature established a commission to recommend sentencing guidelines in order to reduce disparity in sentencing and to establish just, uniform sentencing practices throughout the State in terms of length of incarceration, as well as incarceration versus probation. In developing the guidelines, the commission was to examine appropriate combinations of reasonable offender and offense characteristics, giving substantial consideration to current sentencing and releasing practices and to available correctional resources.

The final report of that commission recommended that a new commission be created to continue the study in order to:

1. Develop further input from affected parties;
2. Focus more fully on appropriate sanctions for offenders;

