

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1360

6  
7 S.P. 499

In Senate, April 19, 1985

8 Referred to the Committee on Judiciary. Sent down for concurrence and  
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Carpenter of Aroostook.

11  
12 STATE OF MAINE  
13

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

17 AN ACT to Amend Certain Provisions of the  
18 Maine Criminal Code.  
19

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

22 Sec. 1. 17-A MRSA §1253, sub-§3, as amended by  
23 PL 1983, c. 456, §3, is further amended to read:

24 3. Beginning October 1, 1983, each person sen-  
25 tenced, to imprisonment for more than 6 months shall  
26 be entitled to receive a deduction of 10 days per  
27 month calculated from the first day of his delivery  
28 into the custody of the department, to include the  
29 full length of the unsuspended portion of his sen-  
30 tence, for observing all the rules of the department  
31 and institution, except this provision shall not ap-  
32 ply to the suspended portion of a person's sentence  
33 pursuant to split sentences under section 1203. All  
34 persons committed to the custody of the Department of  
35 Corrections prior to the effective date of this sub-  
36 section shall have these provisions applied

1 prospectively to the portion of their sentences re-  
2 maining to be served-

3 Sec. 2. 17-A MRSA §1253, sub-§3-B, as amended by  
4 PL 1983, c. 456, §5, is further amended to read:

5 3-B. Beginning October 1, 1983, each person sen-  
6 tenced, to imprisonment for 6 months or less shall be  
7 entitled to receive a deduction of 3 days per month  
8 calculated from the first day of his delivery into  
9 the custody of the department, to include the full  
10 length of the unsuspended portion of his sentence,  
11 for observing all the rules of the department and in-  
12 stitution, except this provision shall not apply to  
13 the suspended portion of a persons sentence pursuant  
14 to split sentences under section 1203. All persons  
15 committed to the custody of the Department of Correc-  
16 tions prior to the effective date of this subsection  
17 shall have these provisions applied prospectively to  
18 the portion of their sentences remaining to be  
19 served-

20 Sec. 3. 17-A MRSA §1254, sub-§3, as amended by  
21 PL 1981, c. 493, §3, is further amended to read:

22 3. All persons in the custody of the Department  
23 of Corrections pursuant to a sentence imposed under  
24 the law in effect prior to the effective date of this  
25 code shall be released and discharged according to  
26 the law as it was in force prior to the effective  
27 date of this code and such law shall continue in  
28 force for this purpose as if this code were not en-  
29 acted; provided that any such person who is entitled  
30 to a deduction of 7 days a month from his sentence  
31 under the provisions of Title 34, section 705, may  
32 elect to have 10 days a month deducted instead of 7.  
33 Any such election shall apply to the entire sentence,  
34 including that portion of the sentence served prior  
35 to the effective date of this code.

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STATEMENT OF FACT

2           The modifications made to both the Maine Revised  
3 Statutes, Title 17-A, sections 1253 and 1254 result  
4 from the recent Maine Law Court decision of Bossie v.  
5 State, No. 3730 (Me. Feb. 27, 1985). Therein the  
6 court struck down the final sentence of Title 17-A,  
7 section 1253, subsection 3, as an unconstitutional  
8 legislative encroachment on the executive's exclusive  
9 power of commutation. Although not expressly ad-  
10 dressed by the Maine Law Court the final sentence of  
11 Title 17-A, section 1253, subsection 3-B, and the  
12 proviso found in Title 17-A, section 1254, subsection  
13 3, suffer from the same constitutional defect.

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