

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 654, L.D. 1692)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2008

8 S.P. 801

In Senate, February 12, 1986

9 Reported by Senator Carpenter for the Committee on Judiciary and
10 printed under Joint Rule 2. Original Bill sponsored by Senator Carpenter of
Aroostook. Cosponsored by Representative Kane of South Portland.

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

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Make Certain Technical Changes in
19 the Law Relating to Post-conviction
20 Review.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 Sec. 1. 15 MRSA §2121, sub-§2, as amended by PL
25 1983, c. 235, §1, is further amended to read:

26 2. Post-sentencing proceeding. "Post-sentencing
27 proceeding" means a court proceeding or administra-
28 tive action occurring during the course of and pursu-
29 ant to the operation of a sentence which affects
30 whether there is incarceration or its length, includ-
31 ing revocation of parole or entrustment of a juve-
32 nile, failure to grant parole or an error of law in
33 the computation of a sentence and default in payment
34 of ~~fin~~ rest ~~under Title 17-A, section 1304 a fine or~~
35 restitution. It does not include administrative dis-
36 disciplinary proceedings resulting in a loss of time de-

1 ~~ductions under Title 17-A, section 1253, subsection~~
2 ~~5, withdrawal of good-time deductions, revocation of~~
3 ~~probation or proceedings before the Appellate Divi-~~
4 ~~sion of the Supreme Judicial Court pursuant to chap-~~
5 ~~ter 306.~~

6 Sec. 2. 15 MRSA §2126, as amended by PL 1981, c.
7 238, §3, is further amended to read:

8 §2126. Exhaustion

9 A person under restraint or impediment specified
10 in section 2124 must also demonstrate that he has
11 previously exhausted remedies incidental to proceed-
12 ings in the trial court, on appeal or administrative
13 remedies. A person who has taken an appeal from a
14 judgment of conviction or a juvenile adjudication is
15 not precluded from utilizing the remedy of this chap-
16 ter while the appeal is pending, provided that the
17 post-conviction review proceeding is automatically
18 stayed pending resolution of the appeal unless the
19 ~~Law Court~~ Appellate Court on motion and for good
20 cause otherwise directs.

21 Sec. 3. 15 MRSA §2129, sub-§1, ¶C, as enacted by
22 PL 1981, c. 238, §5, is amended to read:

23 C. Once the petition has been filed, the clerk
24 shall forward a copy of the petition and any sep-
25 arate documents filed with it to the Chief Jus-
26 tice of the ~~Supreme Judicial~~ Superior Court and
27 to the Attorney General.

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STATEMENT OF FACT

2 Section 1. In the course of identifying 8 pro-
3 ceedings which are expressly declared to be either
4 within or without the meaning of the phrase
5 "post-sentencing proceeding" in the Maine Revised
6 Statutes, Title 15, section 2121, subsection 2, stat-
7 utory references are utilized in only 3 - namely, de-
8 fault in payment of fines under Title 17-A, section
9 1304; administrative disciplinary proceedings result-
10 ing in a loss of time deduction under Title 17-A,
11 section 1253, subsection 5; and proceedings before
12 the Appellate Division of the Supreme Judicial Court
13 pursuant to Title 15, chapter 306. All 3 of these
14 statutory references are unnecessary and are deleted
15 by the new draft.

16 "Restitution" has been added as a proceeding ex-
17 pressly declared to be within the meaning of the
18 phrase "post-sentencing proceeding."

19 Section 2. Since appeals in criminal and juve-
20 nile cases generated in District Court are initially
21 to the Superior Court, the present reference to the
22 "Law Court" in the Maine Revised Statutes, Title 15,
23 section 2126 is inappropriate. The phrase "Appellate
24 Court" is utilized as a substitute for "Law Court" in
25 order to eliminate the problem.

26 Section 3. This change to the Maine Revised
27 Statutes, Title 15, section 2129, was inadvertently
28 omitted from L.D. 481 in the First Regular Session of
29 the 112th Legislature and consequently was not en-
30 acted as part of Public Law 1985, chapter 209.

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