

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 (New Draft of H.P. 1716, L.D. 2408)
2 SECOND SPECIAL SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2434

8 H.P. 1749

House of Representatives, May 29, 1986

9 Reported by the Majority from the Committee on Human Resources and
10 printed under Joint Rule 2. Original bill sponsored by Representative
11 Manning of Portland. Cosponsored by Senator Chalmers of Knox, Senator
Gauvreau of Androscoggin, and Representative Priest of Brunswick.

EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

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

18 AN ACT to Implement Certain Recommendations
19 of the Blue Ribbon Commission on
20 Corrections.
21

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

24 Sec. 1. 17-A MRSA §755, sub-§1-A is enacted to
25 read:

26 1-A. A person is guilty of escape from intensive
27 supervision imposed pursuant to chapter 52 if, with-
28 out official permission, he intentionally fails to
29 appear for work, for school or for a meeting with his
30 Intensive Supervisor Program officer or who otherwise
31 intentionally violates a curfew, time or travel re-
32 striction.

33 Sec. 2. 17-A MRSA §755, sub-§3-A, as amended by
34 PL 1979, c. 701, §§25 and 26, is further amended to
35 read:

1 3-A. Prosecution for escape or attempted escape
2 from any institution included in subsection 3 shall
3 be in the county in which the institution is located.
4 Prosecution for escape or attempted escape of a per-
5 son who has been transferred from one institution to
6 another shall be in the county in which the institu-
7 tion the person was either transferred from or trans-
8 ferred to is located. Prosecution for an escape or
9 attempted escape for failure to return to official
10 custody following temporary leave granted for a spe-
11 cific purpose or a limited period shall be in the
12 county in which the institution from which the leave
13 was granted is located or in any county to which
14 leave was granted. Prosecution for escape or at-
15 tempted escape from intensive supervision shall be in
16 the county in which the escape or attempted escape
17 occurred. In all cases of escape, prosecution may be
18 in the county or division in which the person who has
19 escaped was apprehended.

20 Sec. 3. 17-A MRSA §1152, sub-§2, as amended by
21 PL 1977, c. 53, §1, is repealed and the following en-
22 acted in its place:

23 2. Every natural person convicted of a crime
24 shall be sentenced to one of the following:

25 A. Unconditional discharge as authorized by
26 chapter 49;

27 B. A split sentence of imprisonment with proba-
28 tion as authorized by chapter 49;

29 C. A suspended fine with probation as authorized
30 by chapter 49;

31 D. A suspended term of imprisonment with proba-
32 tion as authorized by chapter 49;

33 E. A split sentence of imprisonment, the initial
34 unsuspended portion of which is served in whole
35 or in part with intensive supervision, followed
36 by probation as authorized by chapter 52;

37 F. A term of imprisonment as authorized by chap-
38 ter 51; or

1 G. A fine as authorized by chapter 53. Subject
2 to the limitations of section 1302, such a fine
3 may be imposed in addition to the sentencing al-
4 ternatives in paragraphs B, D, E and F.

5 Sec. 4. 17-A MRSA §1152, sub-§2-A, as enacted by
6 PL 1977, c. 455, §1, is amended to read:

7 2-A. Every natural person convicted of a crime
8 may be required to make restitution as authorized by
9 chapter 54. Subject to the limitations of chapter 54,
10 restitution may be imposed as a condition of proba-
11 tion or may be imposed in addition to a ~~sentence au-~~
12 ~~thorized by chapter 51 or to a fine authorized by~~
13 ~~chapter 53~~ any other sentencing alternative included
14 within subsection 2 with the exception of the alter-
15 native in paragraph A.

16 Sec. 5. 17-A MRSA §1202, sub-§1, as enacted by
17 PL 1975, c. 499, §1, is repealed and the following
18 enacted in its place:

19 1. A person convicted of a Class A crime may be
20 placed on probation for a period not to exceed 6
21 years; for a Class B or Class C crime, for a period
22 of probation not to exceed 4 years; and for Class D
23 and Class E crimes, for a period not to exceed one
24 year.

25 Sec. 6. 17-A MRSA §1203, sub-§1, as amended by
26 PL 1983, c. 673, §1, is repealed and the following
27 enacted in its place:

28 1. The court may sentence a person to a term of
29 imprisonment, not to exceed the maximum term autho-
30 rized for the crime, an initial portion of which
31 shall be served and the remainder of which shall be
32 suspended. As to both the initial unsuspended portion
33 and the suspended portion relative to a Class A,
34 Class B or Class C crime, the sentence of the court
35 shall specify the place of imprisonment if that place
36 is to be a county jail, otherwise the court shall
37 commit the person to the Department of Corrections.

38 Beginning April 1, 1987, if any portion of a split
39 sentence is specified by the court to be 6 months or
40 less, the court shall specify the place of imprison-

1 ment to be a county jail as to that portion. Beginning
2 January 1, 1989, if any portion of a split sentence
3 is specified by the court to be 9 months or
4 less, the court shall specify the place of imprison-
5 ment to be a county jail as to that portion. In the
6 case of a Class D or Class E crime, the court shall,
7 after the effective date of this paragraph, specify
8 the place of imprisonment to be a county jail with
9 respect to each portion of the split sentence.

10 The period of probation shall commence on the date
11 the person is released from his initial unsuspended
12 portion of the term of imprisonment, unless the court
13 orders that it shall commence on an earlier date. If
14 the period of probation is to commence upon release
15 from the initial unsuspended portion of the term of
16 imprisonment, the court may nonetheless revoke proba-
17 tion for any criminal conduct committed during that
18 initial period of imprisonment.

19 Sec. 7. 17-A MRSA §1252, sub-§1, as amended by
20 PL 1983, c. 673, §4, is repealed and the following
21 enacted in its place:

22 1. In the case of a person convicted of a crime
23 other than murder, the court may sentence to impris-
24 onment for a definite term as provided for in this
25 section, unless the statute which the person is con-
26 victed of violating expressly provides that the fine
27 and imprisonment penalties it authorizes may not be
28 suspended, in which case the convicted person shall
29 be sentenced to imprisonment and required to pay the
30 fine authorized therein. The sentence of the court
31 relative to a Class A, Class B or Class C crime shall
32 specify the term to be served and the place of im-
33 prisonment if that place is to be a county jail, oth-
34 erwise the court shall commit the person to the De-
35 partment of Corrections.

36 Beginning April 1, 1987, if the sentence of the court
37 specifies the term of imprisonment to be 6 months or
38 less, the court shall specify the place of imprison-
39 ment to be a county jail. Beginning January 1, 1989,
40 if the sentence of the court specifies the term of
41 imprisonment to be 9 months or less, the court shall
42 specify the place of imprisonment to be a county
43 jail. In the case of a Class D or Class E crime, the

1 court shall, after the effective date of this para-
2 graph, specify the place of imprisonment to be a
3 county jail.

4 Sec. 8. 17-A MRSA §1252, sub-§6, as enacted by
5 PL 1977, c. 217, is repealed and the following en-
6 acted in its place:

7 6. The court may not specify the place of im-
8 prisonment to be a county jail as to any term of im-
9 prisonment in excess of one year or as to any portion
10 of a split sentence specified by the court to be in
11 excess of one year. This subsection is repealed on
12 January 1, 1989.

13 Sec. 9. 17-A MRSA §1252, sub-§6, as amended, is
14 repealed and the following enacted in its place:

15 6. As to any Class A, Class B or Class C crime,
16 the court may not specify the place of imprisonment
17 to be a county jail as to any term of imprisonment in
18 excess of 9 months or as to any portion of a split
19 sentence specified by the court to be in excess of 9
20 months.

21 As to any Class D or Class E crime, the court may not
22 specify the place of imprisonment to be a county jail
23 as to any term of imprisonment in excess of one year
24 or as to any portion of a split sentence specified by
25 the court to be in excess of one year.

26 Sec. 10. Effective date. Section 9 of this Act
27 shall take effect on January 1, 1989.

28 Sec. 11. 17-A MRSA §1253, sub-§1, as amended by
29 PL 1983, c. 456, §1, is repealed and the following
30 enacted in its place:

31 1. The sentence of any person committed to the
32 custody of the Department of Corrections shall com-
33 ence to run on the date on which that person is re-
34 ceived into the correctional facility designated as
35 the initial place of confinement by the Commissioner
36 of Corrections pursuant to section 1258. That day is
37 counted as the first full day of the sentence.

1 The sentence of any person committed to the custody
2 of a sheriff shall commence to run on the date on
3 which that person is received into the county jail
4 specified in the sentence. That day is counted as
5 the first full day of the sentence if the term of im-
6 prisonment, or the initial unsuspended portion of a
7 split sentence, is over 30 days; otherwise, credit is
8 accorded only for the portion of that day for which
9 the person is actually in execution of the sentence.

10 Sec. 12. 17-A MRSA §1253, sub-§3, as amended by
11 PL 1985, c. 456, §1, is further amended to read:

12 3. Beginning October 1, 1983, each person sen-
13 tenced, to imprisonment for more than 6 months shall
14 be entitled to receive a deduction of 10 days per
15 month calculated from the first day of his delivery
16 into the custody of the department, to include the
17 full length of the unsuspended portion of his sen-
18 tence, for observing all the rules of the department
19 and institution, except that this provision shall not
20 apply to the suspended portion of a person's sentence
21 pursuant to split sentences under section 1203 nor
22 shall it apply to the suspended portion or to the
23 12-month period of intensive supervision of a sen-
24 tence under section 1262.

25 Sec. 13. 17-A MRSA §1254, sub-§1, as enacted by
26 PL 1975, c. 499, §1, is amended to read:

27 1. An imprisoned person shall be unconditionally
28 released and discharged upon the expiration of his
29 sentence, minus the deductions authorized under sec-
30 tion 1253, except that, as to a person committed to
31 the custody of the Department of Corrections, if the
32 computation of that person's sentence fixes his re-
33 lease and discharge date on a Saturday, Sunday or le-
34 gal holiday, that person may be released and dis-
35 charged on the last regular business day of the cor-
36 rectional facility preceding that Saturday, Sunday or
37 legal holiday.

38 Sec. 14. 17-A MRSA §1256, sub-§1-A is enacted to
39 read:

40 1-A. Subsection 1 shall apply to prisoners on
41 intensive supervision. Other offenses committed by a

1 prisoner on intensive supervision for which the sen-
2 tence is to the Department of Corrections shall be
3 governed by section 1266.

4 Sec. 15. 17-A MRSA c. 52 is enacted to read:

5 CHAPTER 52

6 INTENSIVE SUPERVISION

7 §1261. Intensive supervision established

8 1. A sentence to imprisonment with the intensive
9 supervision means a sentence to confinement outside
10 an institution under a set of rigorous conditions im-
11 posed at the time of sentencing. It is an alterna-
12 tive to imprisonment which may be imposed in accord-
13 ance with this chapter following a period of impris-
14 onment or as the initial unsuspended portion of a
15 split sentence. It is a sentencing alternative
16 available to the courts for those persons who would
17 otherwise have been sentenced to institutional con-
18 finement.

19 2. The Intensive Supervision Program shall be
20 composed of up to 10 intensive supervision teams.
21 Each team shall be comprised of 2 Intensive Supervi-
22 sion Program officers. Each team shall have a maxi-
23 imum caseload of 25 offenders. The team shall contact
24 each offender at least 5 times a week.

25 3. A sentence to intensive supervision is a sen-
26 tence to a term of imprisonment. In the event that
27 the Intensive Supervision Program or any essential
28 aspect of the program is determined by the court to
29 be constitutionally flawed, offenders sentenced to
30 the program shall serve the sentences imposed at a
31 state correctional facility determined by the Depart-
32 ment of Corrections, just as each of them would have
33 been compelled to serve the sentences in the absence
34 of this program.

35 4. A person sentenced to a period of intensive
36 supervision pursuant to this chapter is in the offi-
37 cial custody of the Department of Corrections.

38 §1262. Sentences of imprisonment with intensive su-
39 pervision

1 1. The court may sentence a person to a term of
2 imprisonment, not to exceed the maximum term autho-
3 rized for the crime, an initial portion of which
4 shall be for one year or more, to be served with in-
5 tensive supervision, and the remainder, which shall
6 not be less than 2 years, suspended with probation,
7 as authorized by chapter 49. As to both the initial
8 unsuspended portion and the suspended portion, the
9 court shall commit the person to the Department of
10 Corrections. If the initial unsuspended portion is
11 for more than one year, intensive supervision shall
12 apply only to the final year of the initial
13 unsuspended portion. That portion of the initial
14 unsuspended term not to be served on intensive super-
15 vision shall be served in institutional confinement.

16 2. The initial unsuspended portion of the term
17 of imprisonment shall be followed by a period of pro-
18 bation, which is to commence upon completion of the
19 initial unsuspended portion of the term of impriso-
20 nment unless the court orders that it shall commence
21 on an earlier date. As provided in chapter 49, the
22 court may revoke probation for any criminal conduct
23 committed at any time during the initial unsuspended
24 portion of the term of imprisonment.

25 3. In any prosecution for a crime committed pri-
26 or to the effective date of this chapter, the court
27 may, with the consent of the defendant, impose sen-
28 tence under subsection 1, if the defendant is other-
29 wise eligible under section 1263; except that no per-
30 son sentenced prior to the effective date of this
31 chapter is eligible for sentencing under subsection
32 1.

33 4. If, during the initial unsuspended term not
34 served on intensive supervision, the defendant vio-
35 lates the criminal law or is otherwise deemed no
36 longer suitable for participation in the Intensive
37 Supervision Program or the Intensive Supervision Pro-
38 gram is deemed no longer suitable for the defendant,
39 the Department of Correction shall petition the court
40 to terminate the intensive supervision portion of the
41 defendant's sentence. If, during the initial
42 unsuspended term not served on intensive supervision,
43 the defendant does not conform his conduct to insti-
44 tutional rules, the Department of Correction may pe-

1 tion the court to terminate the intensive supervi-
2 sion portion of the defendant's sentence.

3 5. If, at the time the defendant is scheduled to
4 be released to the Intensive Supervision Program, the
5 ratio of prisoners to Intensive Supervision Program
6 officers would exceed 25 to 2, the Department of Cor-
7 rections shall petition the court to relieve it of
8 its obligation to place the defendant in the Inten-
9 sive Supervision Program until it can place the de-
10 fendant in that program without exceeding the ratio
11 of 25 to 2. If the court is satisfied that the ratio
12 of 25 to 2 would be exceeded, it shall grant the
13 motion relieving the department of that obligation.
14 The department must place the defendant in the Inten-
15 sive Supervision Program as soon as the ratio of 25
16 to 2 would not be exceeded and such placement shall
17 occur notwithstanding the fact that the defendant may
18 not then be serving a full year on intensive supervi-
19 sion.

20 6. Each person sentenced to an initial
21 unsuspended term of imprisonment with intensive su-
22 perVISION under this section shall not accumulate any
23 deductions authorized by section 1253, subsection 3,
24 4 or 5, for any period of time actually served out-
25 side the institution on intensive supervision. The
26 deductions authorized by section 1253, subsection 2,
27 credited as specified in that subsection, shall be
28 deducted from the length of the initial term imposed.

29 7. If, upon completion of the period of inten-
30 sive supervision, the Department of Corrections,
31 through the Division of Probation and Parole, consid-
32 ering the supervision, guidance, assistance or direc-
33 tion that probation can provide, deems that probation
34 should be reduced or terminated, it may, at any time,
35 petition the court for reduction or early termination
36 of probation in accordance with section 1202, subsec-
37 tion 3.

38 8. For any person eligible under section 1263,
39 who has been sentenced after the effective date of
40 this chapter to a split sentence of imprisonment
41 without intensive supervision, the court may, upon
42 motion of the department and with the consent of the
43 defendant, modify that sentence to allow for inten-

1 sive supervision if that sentence in all other re-
2 spects satisfies subsection 1.

3 §1263. Eligibility for imprisonment with intensive
4 supervision

5 1. No person may be sentenced to imprisonment
6 with intensive supervision pursuant to section 1262,
7 unless:

8 A. He petitions the court therefor;

9 B. His conviction is for a Class A, Class B or
10 Class C crime, excluding the following:

11 (1) Sections 755, 756 and 757;

12 (2) Any sentence controlled by section
13 1252, subsections 4 and 5; and

14 (3) A conviction for violating a law which
15 expressly provides that the fine and impris-
16 onment penalties it authorizes may not be
17 suspended;

18 C. The sentence imposed conforms to the require-
19 ments of section 1262 and would, in any case,
20 have been a split sentence under section 1203,
21 subsection 1, with committment under both por-
22 tions of the sentence to the Department of Cor-
23 rections;

24 D. The Department of Corrections recommends that
25 the defendant be sentenced pursuant to this chap-
26 ter; and

27 E. The court determines:

28 (1) That sentencing the defendant to im-
29 prisonment with intensive supervision can be
30 done without exceeding the ratio of prison-
31 ers to Intensive Supervision Program offi-
32 cers of 25 to 2;

33 (2) That, where appropriate, the program is
34 consistent with the defendant's vocational,
35 educational, social, familial and other
36 needs; and

1 (3) That the defendant is suitable for the
2 program.

3 §1264. Conditions of imprisonment with intensive su-
4 perception

5 1. If the defendant petitions for intensive su-
6 perception and the Department of Corrections recom-
7 ends intensive supervision, the Department of Cor-
8 rections shall include its recommendations for condi-
9 tions for intensive supervision as a part of its pre-
10 sentence investigation report to the court. The man-
11 datory conditions in subsection 2 must be included in
12 the report.

13 2. The conditions of intensive supervision shall
14 include the following:

15 A. A curfew during the hours of which the pris-
16 oner shall be at his residence as determined by
17 an Intensive Supervision Program officer;

18 B. Travel or movement restrictions as determined
19 by an Intensive Supervision Program officer lim-
20 iting the prisoner's travel to times and places
21 directly related to approved employment, formal
22 education, job search, public service work or
23 such other specific purposes approved in advance
24 by an Intensive Supervision Program officer;

25 C. Searches of the prisoner's person, residence,
26 papers and effects without a warrant and without
27 probable cause, for items prohibited by law or by
28 his conditions or otherwise subject to seizure,
29 upon the request of any Intensive Supervision
30 Program officer. The Department of Corrections
31 may prohibit the prisoner from residing with any-
32 one who does not consent to a search of his resi-
33 dence to the extent necessary to search the
34 prisoner's person, residence, papers and effects;

35 D. That the prisoner not use illegal drugs or
36 other substances, and not abuse alcohol or any
37 other legal substance;

38 E. That the prisoner submit to urinalysis,
39 breath testing or other chemical tests without

1 probable cause, at the request of any Intensive
2 Supervision Program officer;

3 F. That the prisoner notify any law enforcement
4 officer by whom he is stopped of his status as a
5 prisoner on intensive supervision, and that he
6 notify his Intensive Supervision Program officer
7 within 12 hours of any such contact with any law
8 enforcement officer; and

9 G. That the prisoner not violate state or Feder-
10 al criminal law.

11 3. The conditions of intensive supervision may
12 include the following:

13 A. Any condition which may be imposed as a con-
14 dition of probation pursuant to section 1204;

15 B. Any condition which would be appropriate for
16 the prisoner and the program. The conditions im-
17 posed may be as stringent or restrictive as, but
18 not more stringent or restrictive than, those
19 which may be constitutionally imposed if the
20 prisoner were actually housed at a maximum secu-
21 rity institution.

22 4. If the court sentences the defendant to im-
23 prisonment with intensive supervision, it shall im-
24 pose the mandatory conditions in subsection 2 and may
25 impose any additional conditions as provided in sub-
26 section 3, as recommended by the Department of Cor-
27 rections or as determined by the court.

28 5. Prior to the completion of the Intensive Su-
29 perveillance Program, the court, upon petition by the
30 Department of Corrections or on its own motion, may
31 modify any discretionary condition imposed upon a
32 prisoner, add a condition authorized by subsection 3
33 or terminate a discretionary condition imposed upon a
34 prisoner.

35 6. The prisoner's Intensive Supervision Program
36 officer may, at any time and in any manner he deems
37 appropriate, investigate compliance with the condi-
38 tions imposed. Such means may include, but may not
39 be limited to, personal contact with the prisoner at

1 his residence, place of employment or any other
2 place; direct inquiry of the prisoner's employer,
3 school or any other person; criminal, court and po-
4 lice agency checks; and credit and other financial
5 inquiries.

6 7. If an Intensive Supervision Program officer
7 has probable cause to believe the prisoner has com-
8 mitted the crime of escape, he shall file written no-
9 tice of the prisoner's escape in the Superior Court
10 in any county and the court may issue a warrant for
11 the prisoner's arrest. Filing written notice of the
12 prisoner's escape shall toll running of his sentence
13 and no portion of the time between filing of the no-
14 tice and the prisoner's return to custody in this
15 State may be counted as any part of his sentence.

16 §1265. Termination of intensive supervision

17 1. Upon probable cause to believe that a prison-
18 er on the Intensive Supervision Program has violated
19 any condition of that program, that prisoner may be
20 immediately apprehended. Notice of the violation
21 shall be filed with the sentencing court or any Supe-
22 rior Court within 2 court days and a copy shall be
23 provided to the prisoner.

24 2. A hearing shall be held within 7 court days
25 of the filing of notice of the violation. The hear-
26 ing shall follow the procedures for a probation revo-
27 cation hearing under section 1206, subsection 4. The
28 only issue at the hearing is whether the violation
29 occurred.

30 3. If the court finds by a preponderance of the
31 evidence that the prisoner has violated a condition
32 of his intensive supervision, the prisoner shall
33 serve, in institutional confinement, the balance of
34 the portion of the sentence of imprisonment which was
35 to be served with intensive supervision. If the vio-
36 lation conduct is also found to be a violation of the
37 conditions of probation, the court may also revoke
38 probation as specified in section 1206.

39 4. Review of the court's finding of violation
40 shall be by direct appeal.

1 5. Pending a hearing under subsection 2 or pend-
2 ing the appeal of the Superior Court's finding under
3 subsection 3, bail is not authorized.

4 §1266. Sentence for crime committed by prisoner on
5 intensive supervision

6 Any prisoner who, while on intensive supervision,
7 commits an offense punishable by imprisonment for one
8 year or more and who is sentenced therefor to a term
9 of imprisonment and committed to the Department of
10 Corrections shall serve the 2nd sentence to commence
11 from the date of the termination of the first sen-
12 tence, whether that sentence is served or annulled.

13 Sec. 16. 26 MRSA §1002, sub-§7, as amended by PL
14 1975, c. 59, §3, is further amended to read:

15 7. Reports. Make a report to the Governor of its
16 activities and the results thereof, which report
17 shall be incorporated in the biennial report of the
18 Director of the Bureau of Labor-; and

19 Sec. 17. 26 MRSA §1002, sub-§8 is enacted to
20 read:

21 8. Prison industries programs. Cooperate and
22 consult with the Department of Corrections to devel-
23 op policies concerning the issues of job safety for
24 prisoners involved in prison industries programs,
25 work release programs and job displacement created by
26 such programs and to develop opportunities for jobs
27 in the prison industries programs consistent with Ti-
28 tle 34-A, section 1403, subsection 9.

29 Sec. 18. 34-A MRSA §1210 is enacted to read:

30 §1210. Community corrections

31 1. Definitions. As used in this section, unless
32 the context indicates otherwise, the following terms
33 have the following meanings.

34 A. "Commissioner" means the Commissioner of Cor-
35 rections.

1 B. "Community corrections" means the delivery of
2 correctional services by or for the county, in-
3 cluding, but not limited to, preventive or
4 diversionary correctional programs, pretrial re-
5 lease or conditional release programs, alterna-
6 tive sentencing programs, residential treatment
7 and halfway house programs, community correction-
8 al centers and temporary release programs from a
9 facility for the detention or confinement of per-
10 sons convicted of crime or adjudicated delin-
11 quents.

12 C. "Standards compliance" means compliance with
13 the standards promulgated by the department under
14 section 1208, for jail and holding facilities and
15 short-term detention areas.

16 2. Reimbursement. The Department of Corrections
17 shall, under this section, reimburse each county
18 quarterly for each actual day served at that county
19 correctional facility by:

20 A. Persons convicted of a Class A, Class B or
21 Class C crime sentenced after March 31, 1987, to
22 serve a term of imprisonment pursuant to Title
23 17-A, section 1203, subsection 1, or section
24 1252, subsection 1; and

25 B. Persons convicted of a Class A, Class B or
26 Class C crime sentenced after December 31, 1988,
27 to serve a term of imprisonment pursuant to Title
28 17-A, section 1203, subsection 1 or 1252, subsec-
29 tion 1.

30 Reimbursement for periods after June 30, 1987, shall
31 not be authorized until the reimbursable costs are
32 agreed upon by the Commissioner of Corrections, or
33 his designee, and the county commissioners for that
34 county. Reimbursable costs shall, to the extent prac-
35 ticable, be mutually agreed upon prior to the actual
36 expenditures of funds for those costs. Prior approval
37 of all capital expenditures is required for reim-
38 bursement of that expense item. If the Commissioner
39 of Corrections and the county commissioners are un-
40 able to agree upon reimbursable costs, they shall
41 jointly select an arbitrator to determine those
42 costs. The arbitrator's decision shall be final and

1 both the commissioner and the county commissioners
2 shall be bound by his decision.

3 3. Rate of reimbursement. The Department of Cor-
4 rections shall, on a quarterly basis and in a timely
5 fashion, reimburse each county at an initial rate of
6 \$34 per prisoner per day for the period from April 1,
7 1987, to June 30, 1987. Beginning July 1, 1987, sub-
8 sequent rates shall be established as provided in
9 subsection 5.

10 4. Verification of commitment; actual days
11 served. As a condition of reimbursement, the depart-
12 ment shall require the county to submit appropriate
13 documentation verifying the court commitment and the
14 actual number of days served for each prisoner for
15 which reimbursement is requested. Documentation
16 shall include, but not be limited to:

17 A. An invoice provided by the Department of Cor-
18 rections, completed by the county, listing all
19 prisoners for which reimbursement is requested
20 for the quarter;

21 B. One copy of the actual Court Judgment and
22 Commitment Order, including class of crime, for
23 each prisoner listed in the invoice submitted;

24 C. One copy of each Release Date Computation
25 Sheet showing the actual number of days served by
26 each prisoner included in the invoice submitted;
27 and

28 D. By August 1st and February 1st of each calen-
29 dar year, the county shall provide, in a format
30 provided by the Department of Corrections, a copy
31 of actual expenditures for the support of prison-
32 ers for the previous 12 months. The Department
33 of Audit shall establish, in consultation with
34 the counties and the Department of Corrections, a
35 uniform system of accounting for the support of
36 prisoners for the counties pursuant to its au-
37 thority in Title 5, section 243 and consistent
38 with the requirements of this section. No county
39 may be reimbursed after July 1, 1987, until it
40 has implemented the uniform accounting system for
41 the expenditure for support of prisoners.

1 5. Adjustment to the reimbursement. Beginning
2 July 1, 1987, the Commissioner of Corrections shall,
3 semiannually, set the reimbursement for each county
4 to include all actual costs for the support of pris-
5 oners. The actual cost for the support of prisoners
6 shall be calculated on the basis of the previous 12
7 months, for each county, by dividing costs for pris-
8 oner support by the total number of days prisoners
9 are detained in that county and prisoners committed
10 to that county serve. Support of prisoners shall in-
11 clude the following line items:

12 A. Personal Services;

13 B. Contractual Services:

14 (1) Professional fees and services:

15 (a) Medical, dental and psychological;

16 (b) In-house correctional programs and
17 community correctional programs as de-
18 defined in this section;

19 (c) Board of prisoners;

20 (d) Insurances; and

21 (e) Legal fees for prisoners;

22 (2) Prisoner transportation:

23 (a) Gas and oil; and

24 (b) Auto repairs;

25 (3) Utilities:

26 (a) Electricity;

27 (b) Gas;

28 (c) Sewage and water;

29 (d) Telephone; and

30 (e) Rubbish removal;

1 (4) Rentals;

2 (5) Repairs and maintenance;

3 (6) General operating expenses:

4 (a) Postage; and

5 (b) Printing; and

6 (7) Other:

7 (a) Staff training and education;

8 C. Commodities:

9 (1) Food;

10 (2) Fuel; and

11 (3) Supplies:

12 (a) Cleaning;

13 (b) Institutional; and

14 (c) Office; and

15 D. Capital expenditures to the extent that it
16 reflects the actual increase in jail population
17 resulting from net gain of prisoners under Title
18 17-A, section 1203, subsection 1 and section
19 1252, subsection 1, as amended:

20 (1) Equipment:

21 (a) Furniture and fixtures; and

22 (b) Vehicles; and

23 (2) Buildings.

24 6. County Correctional Improvement Account. The
25 county commissioners of each county shall establish
26 the County Correctional Improvement Account for funds
27 received from the State under this section, which
28 shall be used for improving, maintaining and develop-

1 ing correctional programs, community-based correc-
2 tional programs, standards compliance and capital im-
3 provements. Funds in this account unexpended at the
4 end of the year do not lapse, but shall carry forward
5 into subsequent years.

6 7. Technical assistance. The commissioner shall
7 provide technical assistance to counties and county
8 advisory groups to aid them in the planning and de-
9 velopment of correctional programs and standards of
10 compliance consistent with the intent of this sec-
11 tion.

12 8. Projected reimbursements. Annually, after
13 having reimbursed the counties, the commissioner
14 shall submit to the Legislature a report containing
15 projected reimbursements for the following year to
16 indicate whether or not available funds are expected
17 to be sufficient to meet the biennial cost of reim-
18 bursement.

19 Sec. 19. 34-A MRSA §1403, sub-§2, ¶C, as en-
20 acted by PL 1983, c. 729, §6, is amended to read:

21 C. The commissioner shall appoint the following
22 officials to serve at his pleasure:

23 (1) Associate Commissioner;

24 (1-A) Associate Commissioner of Community
25 Corrections;

26 (2) Assistant to the Commissioner; and

27 (3) Director, Correctional Program.

28 Sec. 20. 34-A MRSA §1403, sub-§3, ¶C is enacted
29 to read:

30 C. The Associate Commissioner of Community Cor-
31 rections may be designated to assist in the de-
32 velopment of community correctional programs at
33 the county level and to coordinate activities of
34 the department with each county and any county
35 correctional advisory groups. The Associate Com-
36 missioner may appoint staff to assist in carrying
37 out this paragraph.

1 Sec. 21. 34-A MRSA §1403, sub-§9 is enacted to
2 read:

3 9. Industries programs. The commissioner may
4 establish vocational-training, work and industries
5 programs.

6 A. The program may make services and goods
7 available for purchase by state agencies or the
8 public.

9 B. The commissioner may authorize any person or
10 business entity purchasing goods manufactured at
11 a correctional facility to resell those articles
12 if that person or entity requests, in writing,
13 authority from the commissioner at the time the
14 initial purchase is made.

15 C. All goods manufactured at a correctional fa-
16 ility for sale shall be distinctly labeled or
17 branded with the words "Manufactured at a Maine
18 State Correctional Facility."

19 D. All revenues from direct sales of goods and
20 services produced by prisoners at correctional
21 facilities shall be deposited into the department
22 Industries Accounts, which shall not lapse.

23 E. Funds from these industries accounts may be
24 used to pay for materials, supplies, equipment
25 and salaries for vocational training, work and
26 industrial programs.

27 F. The commissioner may, in consultation with
28 the State Apprenticeship and Training Council,
29 develop policies concerning job displacement and
30 safety and policies to develop opportunities in
31 the prison industries programs.

32 Sec. 22. 34-A MRSA §3072 is enacted to read:

33 §3072. Treaty; transfer of noncitizens of the United
34 States

35 If a treaty in effect between the United States
36 and a foreign country provides for the transfer or
37 exchange of convicted offenders to the country of

1 which they are citizens or nationals, the Governor
2 may, on behalf of the State and subject to the terms
3 of the treaty, authorize the Commissioner of Correc-
4 tions to consent to the transfer or exchange of of-
5 fenders and take any other action necessary to initi-
6 ate the participation of this State in the treaty.

7 Sec. 23. 34-A M RSA §3231, sub-§3, ¶M, as enacted
8 by PL 1983, c. 459, §6, is repealed.

9 Sec. 24. 34-A M RSA §3263, as enacted by PL 1983,
10 c. 459, §6, is repealed.

11 Sec. 25. 34-A M RSA §3403, sub-§4, as reallocated
12 by PL 1983, c. 816, Pt. A, §42, is repealed.

13 Sec. 26. 34-A M RSA §3904, sub-§5, as enacted by
14 PL 1983, c. 861, §1, is repealed.

15 Sec. 27. 34-A M RSA §5401, first ¶, as enacted by
16 PL 1983, c. 459, §6, is amended to read:

17 There is established within the Department of
18 Corrections a Division of Probation and Parole which
19 is charged with the administration of probation and
20 parole services and the Intensive Supervision Program
21 within the State.

22 Sec. 28. 34-A M RSA §5402, sub-§2, as enacted by
23 PL 1983, c. 459, §6, is amended to read:

24 2. Duties. The director shall:

25 A. Promulgate and enforce rules for the field
26 probation and parole service, juvenile
27 caseworkers and parole officers in correctional
28 facilities and for Intensive Supervision Program
29 officers;

30 B. Appoint, subject to the Personnel Law, dis-
31 trict probation and parole supervisors, field
32 probation and parole officers, Intensive Supervi-
33 sion Program officers and such other employees as
34 may be required to carry out adequate supervision
35 of all probationers and of all parolees from the
36 correctional facilities and all persons on inten-
37 sive supervision;

- 1 C. Prescribe the powers and duties of persons
2 appointed under paragraph B;
- 3 D. Provide necessary investigation of any criminal
4 case or matter, including presentence investigation and intensive supervision eligibility
5 investigations, when requested by the court having
6 jurisdiction;
7
- 8 E. Provide investigation when requested by the
9 board;
- 10 F. Cooperate closely with the board, the criminal
11 and juvenile courts, the chief administrative
12 officers of correctional facilities and other
13 correctional facility personnel;
- 14 G. Make recommendations to the board in cases of
15 violations of the conditions of parole;
- 16 H. Issue warrants for the arrest of parole violators;
17
- 18 I. Notify the chief administrative officers of
19 correctional facilities of determinations made by
20 the board;
- 21 J. Divide the State into administrative districts
22 and staff the districts;
- 23 K. Provide instruction and training courses for
24 probation and parole officers, for Intensive Supervision Program officers and for juvenile
25 caseworkers; and
26
- 27 L. Be executive officer and secretary of the
28 board.

29 Sec. 29. Report. The Department of Corrections
30 shall report to the joint standing committee of the
31 Legislature having jurisdiction over correctional
32 policy by January 15, 1991, on the progress of the
33 Intensive Supervision Program and the county transfer
34 of prisoners, as provided in sections 6 to 8 and 18
35 of this Act. The report shall include, but need not
36 be limited to, a discussion of the development and
37 effectiveness of the community-based correctional

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

STATEMENT OF FACT

This new draft incorporates the major provisions of the original bill with the following changes.

It amends the provision of the Intensive Supervision Program as follows:

1. It rewrites portions of the original bill without substantive change for purposes of clarity or to make technical corrections;

2. It requires a minimum of 5 contacts by the Intensive Supervision Program officers with each offender;

3. It tracks the provisions for revocation, termination or modification of a prisoner's Intensive Supervision Program or subsequent probation with the current provisions for revocation, termination or modification of probation;

4. It clarifies the mandatory conditions of intensive supervision to specify that the administration of certain conditions is determined by the Intensive Supervision Program officer, such as the specific hours of curfew or the travel or movement restrictions;

5. It requires that a violation of state or Federal criminal laws is a violation of the mandatory conditions of intensive supervision; and

6. It clarifies the provision regarding search of the prisoner or his residence, etc. It requires a waiver of the constitutional search requirements for someone living with the prisoner to the extent that the search would involve areas related to the prisoner's area of residence. This provision does not modify the department's authority to approve or disapprove all living arrangements under the bill.

This new draft amends the county prisoner provisions as follows:

1. It adds a definition section;

1 2. It clarifies the reimbursement section to re-
2 quire reimbursement for actual expenses for the sup-
3 port of prisoners and provides a method of arbitra-
4 tion to determine the actual cost in case of a dis-
5 pute between the county commissioners and the Depart-
6 ment of Corrections;

7 3. It incorporates technical changes;

8 4. It requires a uniform system of accounting by
9 the counties for support of prisoner expenses;

10 5. It adds building expenses to the reimbursable
11 expenses;

12 6. It mandates the county correctional improve-
13 ment fund; and

14 7. It establishes a full-time position to pro-
15 vide technical assistance to the counties and a full
16 time position to oversee community correctional pro-
17 grams.

18 In addition the following changes were also made
19 to the original bill in this new draft:

20 1. It requires the development of policies con-
21 cerning safety of prison employees in work programs,
22 job displacement due to prison industries programs
23 and the development of opportunities for jobs for
24 prisoners;

25 2. It requires the department to report on the
26 status of the programs enacted by this new draft to
27 the Legislature in 1991; and

28 3. It increases the authorized periods of proba-
29 tion to a lesser degree than they were increased in
30 the original bill.

31

6358052986