

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 299

H.P. 231 House of Representatives, February 6, 1987
Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative CONNOLLY of Portland.

Cosponsored by Representative CONLEY of Portland and
Senator BRANNIGAN of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Concerning Good Time and Meritorious
2 Good Time Relative to Parole
3 Eligibility.
4

5 Emergency preamble. Whereas, Acts of the Legis-
6 lature do not become effective until 90 days after
7 adjournment unless enacted as emergencies; and

8 Whereas, unless this bill is enacted as emergency
9 legislation, it will not take effect before many of
10 those sentenced pursuant to precode law, who would
11 benefit from it, will have served sufficient time as
12 originally calculated and thus be eligible for parole
13 even without benefit of this provision;

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

7 Be it enacted by the People of the State of Maine as
8 follows:

9 17-A MRSA §1254, sub-§4 is enacted to read:

10 4. Any prisoner convicted of an offense commit-
11 ted prior to the effective date of this code and sen-
12 tenced under the law then in effect may elect to have
13 his parole eligibility calculated using the good-time
14 deductions available to prisoners sentenced under
15 this code. The election shall result in the applica-
16 tion in its entirety of the most favorable good-time
17 law during the effective dates of each such law to
18 the parole eligibility determination of the electing
19 prisoner. The parole eligibility and good-time de-
20 ductions of a prisoner who does not so elect shall be
21 calculated in accordance with the laws in effect on
22 the date the offense was committed. Nothing in this
23 section may be construed to compel or permit dis-
24 charge of any prisoner sooner than the discharge
25 would have occurred under the law in effect on the
26 date the offense was committed.

27 Emergency clause. In view of the emergency cited
28 in the preamble, this Act shall take effect when ap-
29 proved.

1

STATEMENT OF FACT

2 The Maine Criminal Code, the Maine Revised Stat-
3 utes, Title 17-A, originally permitted precode pris-
4 oners to elect to be covered by the more generous
5 regular and additional meritorious good-time provi-
6 sions governing those convicted of code offenses.
7 The resulting increased deductions made the precode
8 offenders eligible for parole and for discharge soon-
9 er than would have been possible under the laws in
10 effect on the dates of their offenses.

11 When the Law Court invalidated the application of
12 increased good-time provisions to prisoners previous-
13 ly sentenced, Bossie v. State, 488 A.2d 477 (Me.
14 1985), the final portion of the Maine Revised Stat-
15 utes, Title 17-A, section 1264, subsection 3, the
16 code provision permitting precode prisoners to elect
17 the more generous good-time available under the code,
18 was repealed. The Statement of Fact in L.D. 1360,
19 enacted as Public Law 1985, chapter 456, explained
20 the basis of the repeal:

21 The modifications made to both the Maine Revised
22 Statutes, Title 17-A, sections 1253 and 1254, re-
23 sult from the recent Law Court decision of Bossie
24 v. State, No. 3730 (Me. Feb. 27, 1985). Therein
25 the court struck down the final sentence of Title
26 17-A, section 1253, subsection 3, as an unconsti-
27 tutional legislative encroachment on the
28 executive's exclusive power of commutation. Al-
29 though not expressly addressed by the Law Court
30 the final sentence of Title 17-A, section 1253,
31 subsection 3-B, and the provision found in Title
32 17-A, section 1254, subsection 3, suffer from the
33 same constitutional defect.

34 The Law Court subsequently reaffirmed that legis-
35 lation accelerating discharge constitutes a commuta-
36 tion as to those previously sentenced, but held that
37 acceleration of parole eligibility is not a commuta-
38 tion and that the legislation is not invalid.
39 Gilbert v. State, 505 A.2d 1326 (Me. 1986).

40 This bill reinstates the option available to
41 precode prisoners to elect the more generous regular

1 and additional meritorious good-time deductions
2 available under the code. Consistent with the Law
3 Court decisions, the increased good-time applies only
4 to the prisoner's parole eligibility determination.
5 It allows a precode prisoner to elect the more re-
6 cently enacted good-time provisions if, as currently
7 appears, they are more favorable to him than the
8 precode provision. There have been several succes-
9 sive good-time provisions under the code; a
10 prisoner's election subjects him to each of them
11 within the effective dates of each of them respec-
12 tively.

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