

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

NO. 2312

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H.P. 1683 House of Representatives, February 19, 1988  
Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Judiciary suggested and  
ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative PARADIS of Augusta.

Cosponsored by Representative CARTER of Winslow, Senators  
BERUBE of Androscoggin and BLACK of Cumberland.

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STATE OF MAINE

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

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1 AN ACT to Increase the Penalties for Class A, B  
2 and C Crimes.  
3

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4 Be it enacted by the People of the State of Maine as  
5 follows:

6 Sec. 1. 17-A MRSA §1252, sub-§1, as repealed  
7 and replaced by PL 1985, c. 821, §7, is amended to  
8 read:

1 1. In the case of a person convicted of a crime  
2 other than murder, the court may sentence to  
3 imprisonment for a definite term as provided for in  
4 this section, unless the statute which the person is  
5 convicted of violating expressly provides that the  
6 fine and imprisonment penalties it authorizes may not  
7 be suspended, in which case the convicted person shall  
8 be sentenced to imprisonment and required to pay the  
9 fine authorized therein. The sentence of the court  
10 relative to a Class A, Class B or Class C crime shall  
11 specify the term to be served and the place of  
12 imprisonment if that place is to be a county jail,  
13 otherwise the court shall commit the person to the  
14 Department of Corrections. The court, in all Class A,  
15 Class B and Class C crimes, shall specifically take  
16 into consideration the extent to which any person  
17 sentenced to the Department of Corrections is eligible  
18 to receive good time under section 1253.

19 Beginning April 1, 1987, if the sentence of the court  
20 specifies the term of imprisonment to be 6 months or  
21 less, the court shall specify the place of  
22 imprisonment to be a county jail. Beginning January  
23 1, 1989, if the sentence of the court specifies the  
24 term of imprisonment to be 9 months or less, the court  
25 shall specify the place of imprisonment to be a county  
26 jail. In the case of a Class D or Class E crime, the  
27 court shall, after the effective date of this  
28 paragraph, specify the place of imprisonment to be a  
29 county jail.

30 **Sec. 2.** 17-A MRSA §1252, sub-§2, as enacted by  
31 PL 1975, c. 499, §1, is amended to read:

32 2. The court shall set the term of imprisonment  
33 as follows:

34 A. In the case of a Class A crime, the court  
35 shall set a definite period not to exceed 20 40  
36 years;

37 B. In the case of a Class B crime, the court  
38 shall set a definite period not to exceed ±0 20  
39 years;

1 C. In the case of a Class C crime, the court  
2 shall set a definite period not to exceed 5 10  
3 years;

4 D. In the case of a Class D crime, the court  
5 shall set a definite period of less than one year;  
6 or

7 E. In the case of a Class E crime, the court  
8 shall set a definite period not to exceed 6 months.

9 STATEMENT OF FACT

10 Since the inception of the Maine Criminal Code's  
11 sentencing provision, prosecution and sentencing have  
12 become increasingly complex. Although there exists a  
13 range of sentencing alternatives available to the  
14 court, the current limit on the length of  
15 incarceration for each of the felony Class A, Class B  
16 or Class C crimes has become a stumbling block to  
17 effective prosecution and just sentencing.

18 The increase in the nature and seriousness of the  
19 crimes coupled with increases in good-time credits at  
20 correctional facilities has created the inability of  
21 the criminal justice system to deal effectively with  
22 the most serious felony cases. The courts simply do  
23 not have a sufficient maximum range of sentencing  
24 available for the most dangerous offenders.

25 This bill corrects obvious inequities in the  
26 sentencing laws of the State. The bill is designed to  
27 permit judges to punish the most violent and serious  
28 felony offenders who are incapable of being  
29 rehabilitated. At the same time, this bill continues  
30 fully to permit judges to impose compassionate  
31 sentences upon offenders who are perceived to be  
32 capable of rehabilitation.

33 This bill does not impose mandatory sentences upon  
34 any offender. Judges will retain full authority to  
35 impose any sentence presently available under Maine  
36 law.

1 It is anticipated that the number of offenders who  
2 are sentenced to jail will not increase. The bill is  
3 expected to affect less than 1/2 of 1% of sentenced  
4 inmates. The bill is expected to have no immediate  
5 effect upon the present prison population, which will  
6 not be appreciably affected for at least 13 years.

7 The Maine Criminal Code that was enacted in 1976  
8 eliminated parole and established a definite maximum  
9 sentence for each category of crime: Class A, 20  
10 years; Class B, 10 years; and Class C, 5 years. This  
11 bill increases the sentencing range for each felony  
12 classification. Class A is increased to 40 years,  
13 Class B is increased to 20 years and Class C is  
14 increased to 10 years.

15 The increase in penalty is also intended to  
16 correct the dramatic reduction in sentence that is  
17 automatically caused by the operation of the State's  
18 present "good-time" law. This bill also mandates that  
19 judges will be required at the time of sentencing to  
20 consider the extent to which the sentence imposed will  
21 be reduced by the application of the good-time law,  
22 Title 17-A, section 1253. The purpose of this bill is  
23 to allow judges total flexibility in imposing  
24 sentences.

25 At the present time, good time is granted  
26 automatically and a prisoner's release date from the  
27 institution is calculated by the immediate granting of  
28 good time rather than the sentence imposed by a  
29 judge. In effect, the public is being deceived. The  
30 public is told an inmate received a particular  
31 sentence, when the truth is that the inmate receives  
32 an automatic reduction of 1/3 the day he walks into  
33 the correctional facility.

34 This bill and the present good-time law would  
35 result in a sentencing range that would be consistent  
36 with the original sentencing concept established in  
37 1976.

38 Under this bill, a maximum sentence on a Class A  
39 crime would be 40 years. Automatic good time would

1 immediately reduce the maximum sentence to 27 years  
2 and 4 months. A Class B crime would be punishable by  
3 20 years and would result in an actual maximum  
4 sentence of 13 years and 4 months. A Class C offense  
5 would be punishable by 10 years and would result in an  
6 actual maximum sentence of approximately 6 years and 6  
7 months.

8 In addition, this bill takes into account Title  
9 17-A, section 1253, which provides for an additional  
10 good-time deduction of 5 days per month when an inmate  
11 provides certain work within the Maine State Prison,  
12 or minimum security program. When this additional  
13 good time is added to the automatic good time, an  
14 inmate's sentence is reduced by 50%. When all  
15 available good time is fully calculated, the original  
16 sentencing policy of Title 17-A would be achieved  
17 under this bill.

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