

MAINE STATE LEGISLATURE

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(AFTER DEADLINE)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2381

H.P. 1736 House of Representatives, February 29, 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 CARTER of Winslow.

Cosponsored by Representatives PARADIS of Augusta, CHONKO
of Topsham and Senator BERUBE of Androscoggin.

STATE OF MAINE

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

1 **AN ACT to Improve Supervision of Prison**
2 **Furloughs.**
3

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

6 **Sec. 1.** 34-A MRSA §3035, sub-§2, as enacted by
7 PL 1983, c. 459, §6, is amended to read:

8 2. Furlough. The Subject to subsections 5 to

1 9, the commissioner may grant to a committed offender
2 furlough from the facility in which he is confined
3 under the following conditions.

4 A. Furlough may only be granted subject to rules
5 adopted by the commissioner.

6 B. Furlough may be granted for not more than 10
7 days at one time for a visit to a dying relative,
8 for attendance at the funeral of a relative, for
9 the contacting of prospective employers or for any
10 other reason consistent with the rehabilitation of
11 a committed offender.

12 C. Furlough may be granted for the obtaining of
13 medical services for a period longer than 10 days
14 if medically required.

15 Sec. 2. 34-A MRSA §3035, sub-§§5 to 9 are
16 enacted to read:

17 5. Judicial approval. No unescorted furlough may
18 be granted except with the prior approval of the
19 sentencing court after notice and an opportunity for
20 hearing have been provided to the prosecutor of the
21 furlough applicant, the prosecutor in whose district
22 the furlough is planned to occur and any victim
23 entitled to receive notice of the furlough pursuant to
24 Title 17-A, section 1257-A. The notice must be filed
25 with the sentencing court and served on interested
26 persons at least 30 days before the unescorted
27 furlough is planned to begin.

28 6. Objections; hearing; burden of proof. When
29 any interested person files an objection to the
30 proposed unescorted furlough, the furlough shall not
31 commence until after the court has conducted a hearing
32 on the furlough request. At the hearing, it shall be
33 the burden of the commissioner and the committed
34 offender to prove, by clear and convincing evidence,
35 that while on furlough:

36 A. The offender is not likely to commit crimes or
37 otherwise pose a danger to anyone, including the
38 offender or others;

1 B. The offender will not consume alcoholic
2 beverages or illegal drugs;

3 C. The offender will not be in the presence of
4 persons or other environmental factors which
5 promoted or contributed to the crime for which the
6 offender was committed;

7 D. If the crime for which the offender was
8 committed involved sexual misconduct or other acts
9 of violence, the offender will not be in the same
10 county as the victim resides and there is not
11 otherwise any risk of intended or unintended
12 contact between the offender and the victim, and
13 the furlough will not have an adverse impact upon
14 the victim; and

15 E. The offender's rehabilitation and
16 reintegration into the community will be promoted
17 by the furlough.

18 7. Court approval. The court may approve an
19 unescorted furlough as requested, or with
20 modifications, when all of the criteria in subsection
21 6 are proven by clear and convincing evidence.

22 A. Whenever a court grants a furlough request,
23 the presiding judge or justice shall impose such
24 conditions upon the institution or inmate as will
25 ensure the public safety, as well as the physical,
26 mental and emotional well-being of any member or
27 members of the public or victims of the inmate's
28 crime or crimes.

29 B. Whenever a furlough is granted, the
30 institution seeking the furlough shall have the
31 responsibility of notifying all state, county and
32 municipal police departments of the granting of
33 the furlough and the extent to which the furlough
34 has been restricted by court order or
35 institutional rule.

36 8. Other preconditions for granting furlough. No
37 furlough may be granted until the offender has served

1 50% of the original sentence imposed, without
2 considering any good time that the offender may
3 receive or may have received under Title 17-A, section
4 1253. This section does not apply to furloughs
5 granted under subsection 2, paragraph B or C.

6 9. Violation of furlough. Any offender who
7 violates any furlough granted pursuant to this chapter
8 shall not be granted any additional furloughs while
9 serving the same sentence.

10 STATEMENT OF FACT

11 The purpose of this bill is to provide protection
12 to the public from serious criminal offenders, who are
13 granted prison furloughs, in the same manner that is
14 currently provided for furloughs of persons not
15 criminally responsible and committed to a mental
16 health facility. This bill is limited to unescorted
17 furloughs, whereas both escorted and unescorted
18 furloughs off mental health facility grounds must
19 receive court approval. This bill in no way restricts
20 the ability to provide escorted furloughs for health
21 or family emergencies or any other purpose.

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