

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 44

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S.P. 61

In Senate, January 31, 1989

Reported by Senator BUSTIN of Kennebec for the Joint Select Committee on Corrections pursuant to Joint Order S.P. 16.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 18.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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STATE OF MAINE

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

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**An Act to Establish a Supreme Judicial Court Sentence Review Mechanism  
Relative to Sentences Involving Terms of Imprisonment of One Year or  
More.**

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1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 15 MRSA §2141, as amended by PL 1979, c. 13, §8, is**  
5 **repealed.**

7 **Sec. 2. 15 MRSA §2142, as amended by PL 1979, c. 541, Pt. A,**  
9 **§141, is repealed.**

11 **Sec. 3. 15 MRSA §2143, as amended by PL 1977, c. 510, §7, is**  
13 **repealed.**

15 **Sec. 4. 15 MRSA §2144, as amended by PL 1977, c. 510, §8, is**  
17 **repealed.**

19 **Sec. 5. 15 MRSA c. 306-A is enacted to read:**

21 **CHAPTER 306-A**

23 **SUPREME JUDICIAL COURT SENTENCE REVIEW**

25 **§2151. Application to the Supreme Judicial Court by defendant**  
27 **for review of certain sentences**

29 **In cases arising in the District Court or the Superior Court**  
31 **in which a defendant has been convicted of a criminal offense and**  
33 **sentenced to a term of imprisonment of one year or more, the**  
35 **defendant may, except in any case in which a different term of**  
37 **imprisonment could not have been imposed, apply to the Supreme**  
39 **Judicial Court, sitting as the Law Court, for review of the**  
41 **sentence.**

43 **§2152. Sentence Review Panel of the Supreme Judicial Court**

45 **There shall be a Sentence Review Panel of the Supreme**  
47 **Judicial Court to consider applications for leave to appeal from**  
49 **sentence, and no appeal of the sentence may proceed before the**  
51 **Supreme Judicial Court unless leave to appeal is first granted by**  
**the panel. The Sentence Review Panel shall consist of 3 justices**  
**of the Supreme Judicial Court to be designated from time to time**  
**by the Chief Justice of the Supreme Judicial Court. No justice**  
**may sit or act on an appeal from a sentence imposed by that**  
**justice. Leave to appeal shall be granted if any one of the 3**  
**panelists votes in favor of granting leave. If leave to appeal**  
**is denied, the decision of the panel shall be final and subject**  
**to no further review.**

53 **§2153. Procedure for application**

55 **The time for filing an application for leave to appeal and**  
**the manner and any conditions for the taking of the appeal shall**  
**be as the Supreme Judicial Court shall by rule provide.**

1 §2154. Purposes of sentence review by Supreme Judicial Court

3 The general objectives of sentence review by the Supreme  
5 Judicial Court are:

7 1. Sentence correction. To correct a sentence which is  
9 excessive in length, having regard to the nature of the offense,  
11 the character of the offender and the protection of the public  
13 interest;

15 2. Promote respect for law. To promote respect for law by  
17 correcting abuses of the sentencing power and by increasing the  
19 fairness of the sentencing process;

21 3. Rehabilitation. To facilitate the possible  
23 rehabilitation of an offender by reducing manifest and  
25 unwarranted inequalities among the sentences of comparable  
27 offenders; and

29 4. Sentencing criteria. To promote the development and  
31 application of criteria for sentencing which are both rational  
33 and just.

35 §2155. Factors to consider by Supreme Judicial Court

37 In reviewing a criminal sentence, the Supreme Judicial Court  
39 is authorized to consider:

41 1. Propriety of sentence. The propriety of the sentence,  
43 having regard to the nature of the offense, the character of the  
45 offender and the protection of the public interest; and

47 2. Manner in which sentence was imposed. The manner in  
49 which the sentence was imposed, including the sufficiency and  
51 accuracy of the information on which it was based.

53 §2156. Relief

1. Substitution of sentence or remand. If the Supreme  
Judicial Court determines that relief should be granted, it may:

A. Substitute for the sentence under review any other  
disposition that was open to the sentencing court, provided  
however, that the sentence substituted shall not be more  
severe than the sentence appealed; or

B. Remand the case to the court that imposed the sentence  
for any further proceedings that could have been conducted  
prior to the imposition of the sentence under review and for  
resentencing on the basis of such further proceedings,  
provided however, that the sentence shall not be more severe  
than the sentence originally imposed.

