

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1728

H.P. 1185

House of Representatives, April 29, 1991

Reference to the Joint Select Committee on Corrections suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

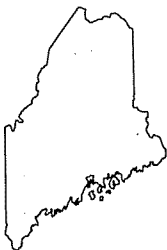
Presented by Representative HANLEY of Paris.

Cosponsored by Representative HEPBURN of Skowhegan and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Establish a Shock Incarceration Program.



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

2
3 Sec. 1. 17-A MRSA §1152, sub-§2, ¶G, as amended by PL 1989, c.
4 502, Pt. D, §11, is further amended to read:

6 G. A fine as authorized by chapter 53. Subject to the
7 limitations of section 1302, such a fine may be imposed in
8 addition to the sentencing alternatives in paragraphs B, D,
9 E and F; ~~or~~

10 Sec. 2. 17-A MRSA §1152, sub-§2, ¶H, as enacted by PL 1989, c.
11 502, Pt. D, §12, is amended to read:

12 H. A county jail reimbursement fee as authorized by chapter
13 54-B; ~~or~~

14 Sec. 3. 17-A MRSA §1152, sub-§2, ¶I is enacted to read:

15 I. A split sentence of imprisonment, the initial
16 unsuspended portion of which is served in whole or in part
17 in a shock incarceration facility followed by probation or
18 by intensive supervision and probation.

19 Sec. 4. 17-A MRSA c. 57 is enacted to read:

20 **CHAPTER 57**

21 **SHOCK INCARCERATION PROGRAM**

22 **§1401. Shock Incarceration Program established**

23 1. There is established the Shock Incarceration Program
24 that may be known and cited as the "program" in this chapter.

25 2. A sentence to shock incarceration is a sentence to a
26 term of imprisonment. If the program or any essential part of
27 the program is determined by the court to be constitutionally
28 flawed, a person sentenced to a term of shock incarceration must
29 serve the sentence imposed at a state correctional facility
30 determined by the Department of Corrections.

31 3. A person sentenced to a term of shock incarceration
32 pursuant to this chapter is in the official custody of the
33 Department of Corrections.

34 **§1402. Sentences of shock incarceration**

35 1. The court may sentence a person convicted of a crime,
36 except a crime specified in section 1403, subsection 1, paragraph
37 F, for which a sentence in a state correctional facility may be
38 imposed, to the Shock Incarceration Program in a shock
39 incarceration facility. The term of incarceration in a shock
40 incarceration facility.

2 incarceration facility may not exceed 120 days and must be
3 followed by:

4 A. A term of imprisonment suspended with probation except
5 that the term of incarceration in a shock incarceration
6 facility, together with the term of probation, may not
7 exceed the maximum term authorized for the crime. The
8 period of probation commences on completion of the term of
9 shock incarceration unless the court orders it to commence
10 on an earlier date. The sentence of probation following the
11 Shock Incarceration Program is governed by chapter 49; or

12 B. A sentence of imprisonment with intensive supervision
13 followed by probation except that the term of incarceration
14 in a shock incarceration facility, together with the term of
15 imprisonment with intensive supervision and probation, may
16 not exceed the maximum term authorized for the crime. The
17 sentence of imprisonment with intensive supervision
18 following the Shock Incarceration Program is governed by
19 chapter 52.

20
21 2. The court must commit a person sentenced to the Shock
22 Incarceration Program to the Department of Corrections.

23
24 3. If a person sentenced to a program of incarceration
25 fails to work diligently and productively or fails to obey the
26 rules of behavior established for the program or is otherwise
27 considered by the Department of Corrections no longer suitable
28 for the program, the department may petition the court to
29 terminate the shock incarceration provision of the person's
30 sentence and if convicted the person must serve the sentence
31 imposed at a state correctional facility determined by the
32 department.

33
34 4. A person sentenced to the Shock Incarceration Program
35 under this section may accumulate deductions authorized under
36 section 1253 for any period of time served in a shock
37 incarceration facility.

38
39 §1403. Eligibility for sentence to a program of shock
40 incarceration

41
42 1. A person may not be sentenced to a term of shock
43 incarceration unless all of the following requirements are met:

44
45 A. The person petitions the court for placement in a shock
46 incarceration facility;

47
48 B. The person is not less than 17 years of age nor more
49 than 25 years of age at the time of sentencing;
50

2 C. The person has never served a period of incarceration in
3 a shock incarceration facility or other state or federal
4 correctional facility;

5 D. The person is physically able to participate in the
6 Shock Incarceration Program;

7 E. The person does not appear to have any mental handicap
8 that prevents participation in the Shock Incarceration
9 Program;

10 F. The person has not been convicted of murder, gross
11 sexual assault or any offense involving violence;

12 G. The Department of Corrections recommends that the person
13 be sentenced under this chapter; and

14 H. The court determines that:

15 (1) The program is inconsistent with the person's
16 vocational, educational, familial, social and other
17 needs; and

18 (2) The person is suitable for the program.

19 Sec. 5. 34-A MRSA §5402, sub-§2, ¶A, as amended by PL 1985, c.
20 821, §28, is further amended to read:

21 A. Promulgate and enforce rules for the field probation and
22 parole service, juvenile caseworkers and parole officers in
23 correctional facilities and, for Intensive Supervision
24 Program officers and for Shock Incarceration Program
25 officers;

26 Sec. 6. 34-A MRSA §5402, sub-§2, ¶B, as repealed and replaced
27 by PL 1987, c. 402, Pt. A, §176, is amended to read:

28 B. Appoint, subject to the Civil Service Law, district
29 probation and parole supervisors, field probation and parole
30 officers, Intensive Supervision Program officers, Shock
31 Incarceration Program officers and such other employees as
32 may be required to carry out adequate supervision of all
33 probationers and of all parolees from the correctional
34 facilities and all persons on intensive supervision;

35 Sec. 7. 34-A MRSA §5402, sub-§2, ¶D, as amended by PL 1985, c.
36 821, §28, is further amended to read:

37 D. Provide necessary investigation of any criminal case or
38 matter, including presentence investigation, shock
39 incarceration eligibility and intensive supervision

2 eligibility investigations, when requested by the court
having jurisdiction;

4 Sec. 8. 34-A MRSA §5402, sub-§2, ¶K, as amended by PL 1989, c.
417, §1, is further amended to read:

6 K. Provide instruction and training courses for probation
8 and parole officers, for Intensive Supervision Program
10 officers, for Shock Incarceration Program officers and for
juvenile caseworkers;

12 Sec. 9. 34-A MRSA §5402, sub-§2, ¶L, as amended by PL 1989, c.
14 417, §2, is further amended to read:

16 L. Be executive officer and secretary of the board; and

18 Sec. 10. 34-A MRSA §5402, sub-§2, ¶M, as enacted by PL 1989,
c. 417, §3, is amended to read:

20 M. Aggregate the statistics contained in any reports the
22 division receives on individual probationers and make the
24 aggregated statistics available to other state agencies
provided the data is aggregated in such a way that
26 statistics pertaining to any individual probationer cannot
can not be disaggregated; and

28 Sec. 11. 34-A MRSA §5402, sub-§2, ¶N is enacted to read:

30 N. Designate institutions as shock incarceration facilities
32 for housing and training persons eligible for shock
34 incarceration under Title 17-A, chapter 57 and adopt rules
36 for the Shock Incarceration Program, including rules for
program structure and administration, inmate discipline and
supervision. The program must provide physical work,
exercise, intensive regimentation and discipline patterned
after military basic training.

38 Sec. 12. 34-A MRSA §5404, first ¶, as amended by PL 1989, c.
40 127, §14, is further amended to read:

42 In addition to duties prescribed by the director and by the
44 court having jurisdiction, a probation and parole officer, intensive
supervision program officer or Shock Incarceration Program
officer shall:

46 Sec. 13. 34-A MRSA §5404, sub-§1, as amended by PL 1989, c.
48 127, §14, is further amended to read:

50 1. **Investigation.** Investigate any criminal case or matter
concerning probation, parole officer, intensive supervision or shock
52 incarceration referred to the officer for investigation and
report the result of the investigation;

2 Sec. 14. 34-A MRSA §5404, sub-§2, ¶C, as amended by PL 1989,
4 c. 127, §14, is further amended to read:

6 C. If the officer has probable cause to believe that a
8 person under the supervision of the Division of Probation
10 and Parole has violated a condition of that person's
12 probation or parole or intensive supervision or shock
14 incarceration, the officer may arrest that person.

16 Sec. 15. 34-A MRSA §5404, sub-§3, ¶A, as amended by PL 1989,
18 c. 127, §14, is further amended to read:

20 A. Supervise the probation, parole or intensive
22 supervision or shock incarceration of each person placed
24 under the officer's supervision;

26

STATEMENT OF FACT

28

30 This bill establishes the Shock Incarceration Program as a
32 new sentencing alternative. Shock incarceration means a sentence
34 to a program of incarceration in a shock incarceration facility
36 providing intensive regimentation and discipline patterned after
military basic training. The bill sets out the conditions of
eligibility for shock incarceration that include that the person
must be between 17 and 25 years of age, may not have spent time
in a correctional facility, must be physically and mentally able
to participate in the program and may not have committed murder,
sexual assault or any offense involving violence. The Department
of Corrections and the court must agree that the person is
eligible for sentencing to the Shock Incarceration Program. The
maximum sentence of incarceration in a shock incarceration
facility is 120 days. The bill requires the Commissioner of
Corrections to designate institutions as shock incarceration
facilities and to adopt rules for the Shock Incarceration Program.