

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2353

S.P. 916

In Senate, February 18, 1992

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

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GILL of Cumberland (GOVERNOR'S BILL).

Cosponsored by Representative MANNING of Portland, Representative HANLEY of Paris and Senator BUSTIN of Kennebec.

STATE OF MAINE

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

**An Act to Establish a Supervised Community Confinement Program for
Certain Prisoners of the Department of Corrections.**



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

2
4 **Sec. 1. 17-A MRSA §755, sub-§1-B** is enacted to read:

6 1-B. A person is guilty of escape from supervised community
8 confinement granted pursuant to Title 34-A, section 3036-A if
10 without official permission that person intentionally fails to
12 appear for work or school or for a meeting with that person's
14 supervising officer or who intentionally fails to return to the
 correctional facility from which transfer was made upon the
 direction of the Commissioner of Corrections or who otherwise
 intentionally violates a curfew, residence, time or travel
 restriction.

16 **Sec. 2. 17-A MRSA §755, sub-§3-A**, as amended by PL 1985, c.
 821, §2, is further amended to read:

18 **3-A.** Prosecution for escape or attempted escape from any
20 institution included in subsection 3 shall must be in the county
22 in which the institution is located. Prosecution for escape or
24 attempted escape of a person who has been transferred from one
26 institution to another shall must be in the county in which the
28 institution the person was either transferred from or transferred
30 to is located. Prosecution for an escape or attempted escape for
32 failure to return to official custody following temporary leave
34 granted for a specific purpose or a limited period shall must be
36 in the county in which the institution from which the leave was
38 granted is located or in any county to which leave was granted.
 Prosecution for escape or attempted escape from intensive
 supervision shall must be in the county in which the escape or
 attempted escape occurred. Prosecution for escape or attempted
 escape from supervised community confinement must be in the
 county in which the institution from which the transfer to
 supervised community confinement was granted is located or in any
 county to which the transfer to supervised community confinement
 was granted. In all cases of escape, prosecution may be in the
 county or division in which the person who has escaped was
 apprehended.

40 **Sec. 3. 34-A MRSA §3036-A** is enacted to read:

42 **§3036-A. Supervised community confinement program**

44 1. Establishment. The commissioner may adopt rules
46 establishing and governing a supervised community confinement
 program for certain prisoners committed to the department.

48 2. Participation. The commissioner may permit any prisoner
50 committed to the department to be transferred from a correctional
 facility to supervised community confinement subject to the
 following restrictions.

- 2 A. A transfer to supervised community confinement may only
3 be granted subject to rules adopted by the commissioner.
- 4
- 5 B. A prisoner may not be transferred to supervised
6 community confinement until the prisoner has served at least
7 2/3 of the term of imprisonment imposed or, in the case of a
8 split sentence, at least 2/3 of the unsuspended portion,
9 after consideration of any deductions that the prisoner has
10 received and retained under Title 17-A, section 1253.
- 11
- 12 C. A prisoner may not be transferred to supervised
13 community confinement unless the prisoner has no more than
14 one year remaining on the term of imprisonment or, in the
15 case of a split sentence, on the unsuspended portion, after
16 consideration of any deductions that the prisoner has
17 received and retained under Title 17-A, section 1253.
- 18
- 19 D. A prisoner may not be transferred to supervised
20 community confinement if the prisoner has a security
21 classification level higher than minimum.
- 22
- 23 3. Mandatory conditions for supervised community
24 confinement. Prisoners transferred to supervised community
25 confinement are subject to the following mandatory conditions.
- 26
- 27 A. The prisoner must be involved in a program of work,
28 education or treatment that is approved by the commissioner.
- 29
- 30 B. The prisoner must live in a residence that is approved
31 by the commissioner.
- 32
- 33 C. The prisoner must be subject to a curfew set by the
34 commissioner during which time the prisoner must be at the
35 approved residence.
- 36
- 37 D. The prisoner must be subject to travel or movement
38 restrictions set by the commissioner limiting the prisoner's
39 travel to times and places directly related to approved
40 employment, education, treatment or such other specific
41 purposes as are approved in advance by the commissioner.
- 42
- 43 E. The prisoner must be subject to searches of the
44 prisoner's person, residence, papers and effects without a
45 warrant and without probable cause, for items prohibited by
46 law or by the conditions of supervised community confinement
47 or otherwise subject to seizure, upon the request of the
48 commissioner. The commissioner may prohibit the prisoner
49 from residing with anyone who does not consent to a search
50 of the residence to the extent necessary to search the
51 prisoner's person, residence, papers and effects.

2 F. The prisoner may not use illegal drugs or other illegal
3 substances, may not use alcohol and may not abuse any other
4 legal substance.

6 G. The prisoner must submit to urinalysis, breath testing
7 or other chemical tests without probable cause at the
8 request of the commissioner.

10 H. The prisoner must notify any law enforcement officer, if
11 stopped, of the prisoner's status as a prisoner on
12 supervised community confinement and notify the commissioner
13 within 8 hours of any such contact with any law enforcement
14 officer.

16 I. The prisoner may not violate state or federal criminal
17 law.

18 J. When required by the commissioner, the prisoner must pay
19 part or all of the costs of the prisoner's participation in
20 the supervised community confinement program.

22 4. Additional conditions. In addition to the mandatory
23 conditions, the conditions of supervised community confinement
24 that may be imposed on a prisoner at any time include:

26 A. Any condition that may be imposed as a condition of
27 probation pursuant to Title 17-A, section 1204; and

30 B. Any condition that would be appropriate for the prisoner
31 and the supervised community confinement program. The
32 conditions imposed may be as stringent or restrictive as,
33 but not more stringent or restrictive than, those that may
34 be constitutionally imposed if the prisoner were actually
35 housed at a maximum security institution.

36 5. Copy of rules. Copies of rules must be provided to
37 prisoners as follows.

40 A. The commissioner shall provide to any prisoner permitted
41 to participate in the supervised community confinement
42 program under this section a copy of the rules applicable to
43 the program.

44 B. The prisoner shall attest to the receipt of the copy of
45 the rules.

48 6. Prohibited acts. Prohibited acts under this section are
49 governed as follows.

50

2 A. A person 18 years of age or older is guilty of
4 interference with supervised community confinement if that
6 person intentionally or knowingly obstructs, intimidates or
8 otherwise abets any prisoner participating in the supervised
10 community confinement program under this section and
12 contributes or causes the prisoner to violate any term of
14 supervised community confinement program participation,
16 after having been warned by the commissioner to end the
18 relationship or association with the prisoner.

20 B. Interference with supervised community confinement is a
22 class D crime.

24 7. Investigation of compliance. The commissioner, at any
26 time and in any manner the commissioner determines appropriate,
28 may investigate compliance with the conditions imposed. The
30 means of investigation may include, but are not limited to, the
32 following:

34 A. Personal contact with the prisoner at the prisoner's
36 residence, place of employment or any other place;

38 B. Direct inquiry of the prisoner's employer, school or any
40 other person or entity;

42 C. Criminal, court and police agency investigations; and

44 D. Credit and other financial inquiries.

46 8. Funding. Funds generated pursuant to this section must
48 be deposited into the Supervised Community Confinement Account
50 established by the department, which may not lapse. Funds from
52 this account must be used to pay for the costs of the supervised
54 community confinement program.

56 Sec. 4. 34-A MRSA §3061, sub-§1, as amended by PL 1991, c.
58 314, §53, is further amended to read:

60 1. Transfer. The commissioner may transfer any client from
62 one correctional or detention facility or program, including
64 prerelease centers, work release centers, halfway houses,
66 supervised community confinement or specialized treatment
68 facilities, to another, except that no juvenile may be
70 transferred to another facility or program for adult offenders.

72 Sec. 5. 34-A MRSA §5404, sub-§2, ¶B, as amended by PL 1987, c.
74 315, §2, is further amended to read:

76 B. Arrest and return to a correctional facility persons
78 released from the correctional facility under section 3035
80 or transferred from the facility under section 3036-A; and

