

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 192

S.P. 79

In Senate, January 28, 1993

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**An Act to Establish a Shock Incarceration Program.**

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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 HANLEY of Oxford.

Cosponsored by Senators: BUTLAND of Cumberland, CARPENTER of York, HALL of Piscataquis, KIEFFER of Aroostook, SUMMERS of Cumberland, Representatives: BAILEY of Township 27, BARTH of Bethel, BENNETT of Norway, GREENLAW of Standish, KETTERER of Madison, KUTASI of Bridgton, LIBBY of Kennebunk, ZIRNKILTON of Mount Desert.

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

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

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

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

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

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

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

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

26                                           **CHAPTER 57**

28                                           **SHOCK INCARCERATION PROGRAM**

30       **§1401. Shock Incarceration Program established**

32           1. There is established the Shock Incarceration Program, referred to in this chapter as the "program."

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

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

40       **§1402. Sentences of shock incarceration**

42           1. The court may sentence a person convicted of a crime, except a crime specified in section 1403, subsection 1, paragraph F, for which a sentence in a state correctional facility may be

2 imposed, to the program in a shock incarceration facility. The  
3 term of incarceration in a shock incarceration facility may not  
4 exceed 120 days and must be followed by:

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

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

20 2. The court must commit a person sentenced to the program  
21 to the Department of Corrections.

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

30 4. A person sentenced to the program under this section may  
31 accumulate deductions authorized under section 1253 for any  
32 period of time served in a shock incarceration facility.

33 **§1403. Eligibility for sentence to program**

34 1. A person may not be sentenced to a term of shock  
35 incarceration unless all of the following requirements are met.

36 A. The person petitions the court for placement in a shock  
37 incarceration facility.

38 B. The person is not less than 17 years of age nor more  
39 than 25 years of age at the time of sentencing.

40 C. The person has never served a period of incarceration in  
41 a shock incarceration facility or other state or federal  
42 correctional facility.

2 D. The person is physically able to participate in the  
3 program.

4  
5 E. The person does not appear to have any mental handicap  
6 that prevents participation in the program.

7  
8 F. The person has not been convicted of murder, gross  
9 sexual assault or any offense involving violence.

10  
11 G. The Department of Corrections recommends that the person  
12 be sentenced under this chapter.

13  
14 H. The court determines that:

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

19  
20 (2) The person is suitable for the program.

21  
22 **Sec. 5. 34-A MRSA §5402, sub-§2, ¶A,** as amended by PL 1985, c.  
23 821, §28, is further amended to read:

24  
25 A. Promulgate and enforce rules for the field probation and  
26 parole service, juvenile caseworkers and parole officers in  
27 correctional facilities and, for Intensive Supervision  
28 Program officers and for Shock Incarceration Program  
29 officers;

30  
31 **Sec. 6. 34-A MRSA §5402, sub-§2, ¶B,** as repealed and replaced  
32 by PL 1987, c. 402, Pt. A, §176, is amended to read:

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

41  
42 **Sec. 7. 34-A MRSA §5402, sub-§2, ¶D,** as amended by PL 1985, c.  
43 821, §28, is further amended to read:

44  
45 D. Provide necessary investigation of any criminal case or  
46 matter, including presentence investigation, shock  
47 incarceration eligibility and intensive supervision  
48 eligibility investigations, when requested by the court  
49 having jurisdiction;

50

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

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

8           **Sec. 9. 34-A MRSA §5402, sub-§2, ¶L,** as amended by PL 1989, c.  
10          417, §2, is further amended to read:

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

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

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

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

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

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

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

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

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

50

