

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 617

H.P. 480

House of Representatives, February 23, 1993

An Act to Abolish All Concurrent Sentences.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HILLOCK of Gorham.
Cosponsored by Representative: DONNELLY of Presque Isle.

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

2
3 Sec. 1. 15 MRSA §1702, as amended by PL 1989, c. 104, Pt. C,
4 §§8 and 10, is further amended to read:

6 **§1702. No punishment until conviction; costs; consecutive**
7 **sentences**

8
9 No person may be punished for an offense until convicted
10 thereof in a court having jurisdiction of the person and case. In
11 ~~all cases where~~ When a fine is imposed ~~he, the person~~ may be
12 sentenced to pay the costs of prosecution, except before the
13 District Court in which court he the person may be sentenced to
14 pay a fine sufficient to cover said those costs as provided in
15 Title 4, section 173; and except before a District Court for
16 violations of Title 28-A, sections 2078, ~~2080,~~ and 2223 ~~and 2225,~~
17 and Title 26, chapter 7, subchapter I-B, ~~he shall in which court~~
18 the person must be sentenced to pay such the costs.

20 Sec. 2. 17-A MRSA §401, sub-§3, as amended by PL 1985, c. 282,
21 §4, is further amended to read:

22
23 3. A person may be convicted both of burglary and of the
24 crime ~~which he~~ that the person committed or attempted to commit
25 after entering or remaining in the structure, but sentencing for
26 both crimes shall be is governed by section ~~1256~~ 1256-A.

28 Sec. 3. 17-A MRSA §755, sub-§3, as amended by PL 1985, c. 210,
29 is further amended to read:

30
31 3. As used in this section, "official custody" means
32 arrest, custody in, or on the way to or from a courthouse or a
33 jail, police station, house of correction, or any institution or
34 facility under the control of the Department of Corrections, or
35 under contract with the department for the housing of persons
36 sentenced to imprisonment, the custody of any official of the
37 department, ~~the custody of any institution in another~~
38 ~~jurisdiction pursuant to a sentence imposed under the authority~~
39 ~~of section 1253, subsection 1-A~~ or any custody pursuant to court
40 order. A person on a parole or probation status is not, for that
41 reason alone, in "official custody" for purposes of this section.

42
43 Sec. 4. 17-A MRSA §1202, sub-§4, as enacted by PL 1989, c.
44 739, §1, is amended to read:

45
46 4. Any justice, in order to comply with section ~~1256~~
47 1256-A, subsection 8 6, may terminate a period of probation that
48 would delay commencement of a consecutive unsuspended term of
49 imprisonment. Any judge may also do so if that judge has
50 jurisdiction over each of the sentences involved.

2 **Sec. 5. 17-A MRSA §1206, sub-§5**, as amended by PL 1983, c.
450, §5, is further amended to read:

4
6 5. When the alleged violation constitutes a crime for which
the person on probation has not been convicted, the court may
8 revoke probation if it finds by a preponderance of the evidence
that the person on probation committed the crime. If the person
10 is subsequently convicted of the crime, or any other crime or
crimes arising out of the same conduct, sentencing shall be is
12 subject to the requirements of section ~~1256~~ 1256-A. ~~If concurrent~~
~~terms of imprisonment are imposed and the terms do not commence~~
~~on the same date, any time served as a result of the probation~~
14 ~~revocation shall be deducted from the time the person is required~~
~~to serve as a result of the new conviction.~~

16 **Sec. 6. 17-A MRSA §1206, sub-§7**, as amended by PL 1983, c.
18 450, §7, is further amended to read:

20 7. If a person on probation is convicted of a new crime
during the period of probation, the court may sentence him ~~the~~
22 person for such that crime and revoke probation. If the person
has been sentenced for the new crime and probation revocation
24 proceedings are subsequently commenced, the court which that
conducts the revocation hearing may revoke probation. Sentencing
26 for the multiple offenses shall be is subject to section 1256
1256-A. ~~If concurrent terms of imprisonment are imposed and the~~
~~terms do not commence on the same date, any time served as a~~
28 ~~result of the new conviction shall be deducted from the time the~~
~~person is required to serve as a result of the probation~~
30 ~~revocation.~~

32 **Sec. 7. 17-A MRSA §1253, sub-§1-A**, as repealed and replaced by
34 PL 1985, c. 282, §6, is repealed.

36 **Sec. 8. 17-A MRSA §1256**, as amended by PL 1989, c. 739, §2,
is repealed.

38 **Sec. 9. 17-A MRSA §1256-A** is enacted to read:

40 **§1256-A. Multiple sentences of imprisonment**

42 1. When a person subject to an undischarged term of
44 imprisonment is convicted of a violation of sections 755 and 757
or section 752-A, or is convicted of any other crime against the
46 person of a member of the staff of the institution in which the
convicted person is imprisoned or of an attempt to commit any of
48 the crimes mentioned in this subsection, the sentence must run
consecutively with the undischarged term of imprisonment. A
50 portion of this sentence may not be suspended.

2 2. Subsection 1 applies to a prisoner on intensive
3 supervision. Other offenses committed by a prisoner on intensive
4 supervision for which the sentence is to the Department of
5 Corrections are governed by section 1266.

6 3. The court shall state in the sentence of imprisonment
7 that the new sentence must be served consecutively with any other
8 sentence previously imposed or imposed on the same date.

10 4. When a person has been placed on probation pursuant to a
11 previously imposed sentence, the court shall revoke probation
12 pursuant to section 1206, subsections 7 and 7-A. The court may
13 order that the sentence that had been suspended must be served at
14 the same institution as that which is specified by the new
15 sentence.

16 5. When a person who has been previously sentenced in
17 another jurisdiction has not commenced or completed that
18 sentence, the court shall sentence the person to a consecutive
19 term of imprisonment. The sentence of imprisonment in this State
20 commences as provided in section 1253, subsection 1 and runs
21 consecutively with the sentence of the other jurisdiction.

22 6. A court may not impose a sentence of imprisonment, not
23 wholly suspended, to be served consecutively with any split
24 sentence previously imposed or imposed on the same date, if the
25 result, even with the options in subsections 4 and 7 and section
26 1202, subsection 4, would be to have the person released from
27 physical confinement to be placed on probation for the first
28 sentence and thereafter be required to serve an unsuspended term
29 of imprisonment on the 2nd sentence.

30 7. Any court imposing a sentence of imprisonment to be
31 served consecutively with any other previously imposed sentence
32 that the person has not yet commenced, in order to comply with
33 subsection 6, may rearrange the order in which the sentences are
34 to be served. Any other judge may also do so if that judge has
35 jurisdiction over each of the sentences involved.

36 **Sec. 10. 34-A MRSA §9603, sub-§5, as enacted by PL 1983, c.**
37 **459, §6, is amended to read:**

38 **5. Waiver of extradition.** Any request for final disposition
39 made by a prisoner pursuant to subsection 1 shall ~~is~~ also be
40 deemed to be a waiver of extradition with respect to any charge
41 or proceeding contemplated thereby or included therein by reason
42 of subsection 1 and a waiver of extradition to the receiving
43 state to serve any sentence there imposed upon ~~him~~ the prisoner,
44 after completion of his the term of imprisonment in the sending

2 state. The request for final disposition shall also constitute
3 constitutes a consent by the prisoner to the production of his
4 the prisoner's body in any court where his the prisoner's
5 presence may be required in order to effectuate the purposes of
6 this agreement and a further consent voluntarily to be returned
7 to the original place of imprisonment in accordance with this
8 agreement. ~~Nothing--in--this--subsection--shall--prevent--the
imposition-of-a-concurrent-sentence-if-otherwise-permitted-by-law.~~

10
11 **STATEMENT OF FACT**

12
13 This bill eliminates the court's authority to impose
14 concurrent sentences of imprisonment and requires that all
sentences be consecutive.