

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

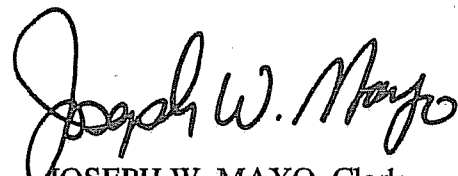
No. 1443

H.P. 1077

House of Representatives, May 5, 1993

Resolve, to Create a Pretrial Intervention Pilot Program for Sex Offenders.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative LIPMAN of Augusta.
Cosponsored by Representative: CARON of Biddeford, Senator: CONLEY of Cumberland.

2 **Sec. 1. Pilot program established. Resolved:** That the Pretrial
3 Intervention Project is established as a pilot program to provide
4 pretrial intervention and diversion for alleged first-time sex
5 offenders whose victims are under the age of 18 years; and be it
6 further

7 **Sec. 2. Commission established; membership. Resolved:** That the
8 Pretrial Intervention Project Commission is established to
9 develop and oversee the project. The members of the commission
10 are as follows:

11 1. The Commissioner of Human Services or the commissioner's
12 designee;

13 2. The Commissioner of Corrections or the commissioner's
14 designee; and

15 3. The Commissioner of Mental Health and Mental Retardation
16 or the commissioner's designee.

17 The commission shall ask the Chief Justice of the Supreme
18 Judicial Court to designate a judge from the District Court or a
19 justice from the Superior Court to serve as a member of the
20 commission.

21 The members of the commission are not entitled to
22 compensation other than reimbursement of actual expenses; and be
23 it further

24 **Sec. 3. Elements of project; rules. Resolved:** That the project
25 must provide intervention for and diversion of qualifying
26 individuals before a criminal charge is made or an indictment is
27 brought. The commission shall adopt rules in accordance with the
28 Maine Administrative Procedure Act necessary to implement the
29 project. As part of its rulemaking the commission shall:

30 1. Establish procedures and protocol for referral of
31 individuals to the project. The rules must also identify which
32 state agencies may properly refer individuals to the program and
33 under what circumstances the agencies may make a referral;

34 2. Develop mechanisms for determining whether an individual
35 is an appropriate candidate for participation in the project
36 based, at a minimum, on the likelihood of success of that
37 participation and the likelihood that the alleged criminal
38 behavior will not occur again as a result of participation;

39 3. Establish criteria for acceptance of individuals into
40 the project. The criteria must include, but are not limited to,
41 the following elements:
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- 2 A. That the individual is an alleged first-time offender;
- 4 B. That the individual allegedly committed a sex offense against a victim under 18 years of age;
- 6 C. That the referral is in accordance with established
- 8 procedures and protocol; and
- 10 D. That the individual meets other guidelines to
- 12 ensure successful participation in the project; and

14 4. Determine alternatives to prosecution that must be available to qualifying individuals under the project. These alternatives may include, but are not limited to, treatment, counseling, separation or reunification of families, and other appropriate programs; and be it further

18 **Sec. 4. Implementation; report. Resolved:** That the project must be implemented and an interim report submitted to the First Regular Session of the 117th Legislature by January 1, 1995. The interim report may include legislation proposing changes to the law determined necessary by the commission. The interim report must summarize the work of the commission and outline the elements of the project, including rules adopted to implement the project, the number of individuals who were or are participants in the project and the alternatives to prosecution authorized by and those actually used in the project. A final report must be submitted to the Second Regular Session of the 117th Legislature by January 1, 1996 and must include an assessment of the effectiveness of the project and whether the project should continue and, if so, whether it should be made a permanent program within State Government; and be it further

34 **Sec. 5. Funding. Resolved:** That the funding for the commission and the project must be provided from funds allocated or appropriated to the Department of Corrections; and be it further

38 **Sec. 6. Staffing. Resolved:** That the departments of the commissioners represented on the commission shall provide staffing assistance to the commission within budgeted resources.

44 **STATEMENT OF FACT**

46 This bill sets up the Pretrial Intervention Project Commission to develop and oversee a pilot project to provide intervention and diversion for first-time offenders who allegedly commit sex offenses against minors. The project will provide alternatives to prosecution for certain first-time offenders. An

interim report on the project must be submitted by January 1,
2 1995 and a final report one year later.