

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1706

S.P. 608

In Senate, January 11, 1994

An Act to Revise the Execution of Certain Mandatory Consecutive Sentences.

Submitted by the Department of Corrections pursuant to Joint Rule 24.
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.

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

2
4 Sec. 1. 17-A MRSA §1256, sub-§1, as amended by PL 1983, c.
408, §3, is further amended to read:

6 1. Other provisions of this section notwithstanding, when a
8 person subject to an undischarged term of imprisonment is
10 convicted of a violation of ~~sections 755 and 757, or of a~~
12 ~~violation of~~ section 752-A, 755 or 757 or of any other crime
14 against the person of a member of the staff of the institution in
16 which the convicted person was imprisoned, or of an attempt to
18 commit any of the crimes mentioned in this subsection, the
20 sentence ~~shall run consecutively to~~ is not concurrent with the
22 undischarged term terms of imprisonment. The court may order
that the undischarged terms of imprisonment be tolled and service
of the nonconcurrent sentence commence immediately and the court
shall so order if any undischarged term of imprisonment is a
split sentence. No portion of this ~~sentence~~ the nonconcurrent
sentence may be suspended. All sentences that the convicted
person receives as a result of the crimes mentioned in this
subsection shall be ~~consecutive to~~ nonconcurrent with all other
sentences.

24
26 STATEMENT OF FACT

28 The purpose of this bill is to address the problem that
30 arises when prisoners are convicted of escape or of another crime
32 that requires a consecutive sentence. While a consecutive
34 sentence is usually interpreted as being served after the
36 sentence to which it is consecutive, when the "undischarged
sentence" is a split sentence, a conflict occurs between the
requirement that sentences for offenses be consecutive and not
suspended and the prohibition on a term of imprisonment following
a split sentence.

38 This bill allows the court to toll the running of the
40 prisoner's undischarged sentences so that the prisoner will serve
42 the new sentence immediately and separately. When the prisoner
44 completes the sentence for the new crime, the prisoner goes back
into execution of the undischarged sentences. Any period of
probation on the undischarged sentences must still be served and
any counseling attended, restitution paid and contact with the
victim avoided.

46 Under this bill, the court has the option to order immediate
48 service of the new, "consecutive" sentence, and is required to do
50 so when the prisoner is already subject to wholly or partially
suspended periods of incarceration with probation.

2 Finally, the bill corrects the characterization of the
sentences imposed under these circumstances from "consecutive" to
4 "nonconcurrent." The purpose of the "consecutive" requirement is
that such sentences must be served in addition to the prisoners
6 other sentences, but need not be served last, Lizotte v. State,
279 A2d 524 (Me. 1971), especially when, as here, the result of
8 requiring that those sentences be served last is to defeat a
major function of the sentence or sentences already imposed.

10

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14 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
16 amendments to conform existing law to current drafting standards.