

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 76

S.P. 46

In Senate, January 17, 1995

An Act to Establish a Shock Incarceration Program.

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator HANLEY of Oxford.

Cosponsored by Senators: BENOIT of Franklin, CASSIDY of Washington, HALL of Piscataquis, HATHAWAY of York, PENDEXTER of Cumberland, Representatives: BIRNEY of Paris, NICKERSON of Turner, ROBICHAUD of Caribou, UNDERWOOD of Oxford, WATERHOUSE of Bridgton, WINSOR of Norway.

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 1993, c.
103, §1, is further amended to read:

6 G. A fine as authorized by chapter 53. Such a fine may be
8 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.
12 502, Pt. D, §12, is amended to read:

14 H. A county jail reimbursement fee as authorized by chapter
14 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 unsuspended
20 portion of which is served in whole or in part in a shock
incarceration facility, followed by probation or by
22 intensive supervision and probation.

24 **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
36 the program is determined by the court to be constitutionally
flawed, a person sentenced to a term of shock incarceration for a
38 Class A, Class B or Class C crime serves that sentence at a state
correctional facility determined by the Department of
40 Corrections; a person sentenced to a term of shock incarceration
for a Class D or Class E crime serves that sentence at a county
42 jail.

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

48 **§1402. Sentences of shock incarceration**

50 1. The court may sentence to the program in a shock
incarceration facility a person convicted of a crime, except a
52 crime specified in section 1403, subsection 1, paragraph F, for

2 which a sentence in a state correctional facility may be
3 imposed. The term of incarceration in a shock incarceration
4 facility may not exceed 120 days and must be followed by:

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

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

21 2. The court shall commit a person sentenced to the program
22 to the Department of Corrections.

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

33
34 4. A person sentenced to the program under this section may
35 accumulate deductions authorized under section 1253 for any
36 period of time served in a shock incarceration facility.

37 **§1403. Eligibility for sentence to program**

38
39 1. A person may not be sentenced to a term of shock
40 incarceration unless all of the following requirements are met.

41
42
43 A. The person petitions the court for placement in a shock
44 incarceration facility.

45
46 B. The person is not less than 17 years of age nor more
47 than 25 years of age at the time of sentencing.

48
49 C. The person has never served a period of incarceration in
50 a shock incarceration facility or other state or federal
51 correctional facility.

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

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

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

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

12 H. The court determines that:

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

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

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

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

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

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

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

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

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

52

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

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

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

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

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

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

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

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

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

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

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

48 **Sec. 14. 34-A MRSA §5404, sub-§2, ¶C**, as amended by PL 1989,
50 c. 127, §14, is further amended to read:

52 C. If the officer has probable cause to believe that a
person under the supervision of the Division of Probation

2 and Parole has violated a condition of that person's
3 probation or parole ~~or~~, intensive supervision or shock
4 incarceration, the officer may arrest that person.

6 **Sec. 15. 34-A MRSA §5404, sub-§3, ¶A**, as amended by PL 1989,
7 c. 127, §14, is further amended to read:

8 A. Supervise the probation, parole ~~or~~, intensive
9 supervision or shock incarceration of each person placed
10 under the officer's supervision;

12 STATEMENT OF FACT

14 This bill establishes the Shock Incarceration Program as a
15 new sentencing alternative. A person sentenced to the program
16 completes the incarceration portion of the sentence in a facility
17 providing intensive regimentation and discipline patterned after
18 military basic training. To be eligible for shock incarceration,
19 the person must be between 17 and 25 years of age, may not have
20 spent time in a correctional facility, must be physically and
21 mentally able to participate in the program and may not have
22 committed murder, gross sexual assault or any offense involving
23 violence. The Department of Corrections and the court must agree
24 that the person is eligible for sentencing to the Shock
25 Incarceration Program. The maximum sentence of incarceration in
26 a shock incarceration facility is 120 days. The bill requires
27 the Commissioner of Corrections to designate institutions as
28 shock incarceration facilities and to adopt rules for the Shock
29 Incarceration Program.
30