

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 542

S.P. 199

In Senate, February 14, 1995

**An Act to Include the Law Court's Imprisonment Sentencing Procedure
in the Maine Criminal Code.**

Reported by Senator MILLS of Somerset for the Criminal Law Advisory Commission
pursuant to the Maine Revised Statutes Title 17-A, section 1354, subsection 2.

Reference to the Committee on Criminal Justice suggested and ordered printed pursuant to
Joint Rule 20.

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

MAY M. ROSS
Secretary of the Senate

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

4 **Sec. 1. 17-A MRSA §1252-C** is enacted to read:

6 **§1252-C. Sentencing procedure relating to the imposition of imprisonment**

8 In imposing a sentencing alternative pursuant to section
10 1152 that includes a term of imprisonment relative to murder, a
12 Class A, Class B or Class C crime, in setting the appropriate
14 length of that term as well as any unsuspended portion of that
16 term accompanied by a period of probation, the court shall employ
18 the following 3-step process:

20 1. The court shall first determine a basic term of
22 imprisonment by considering the particular nature and seriousness
24 of the offense as committed by the offender.

26 2. The court shall next determine the maximum period of
28 imprisonment to be imposed by considering all other relevant
30 sentencing factors, both aggravating and mitigating, appropriate
32 to that case. These sentencing factors include, but are not
34 limited to, the character of the offender and the offender's
36 criminal history, the effect of the offense on the victim and the
38 protection of the public interest.

40 3. The court shall finally determine what portion, if any,
42 of the maximum period of imprisonment should be suspended and, if
44 a suspension order is to be entered, determine the appropriate
period of probation to accompany that suspension. The court
shall specify the place of imprisonment or commitment to the
Department of Corrections.

34 **STATEMENT OF FACT**

36 This bill enacts into positive law the Law Court's 3-step
38 sentencing procedure for felonies, established in State v. Hewey,
40 622 A.2d 1151, 1154-55 (Me. 1993), when imposing a sentence
42 alternative involving a term of imprisonment. See also State v.
44 Roberts, 641 A.2d 177, 179 (Me. 1994). The Maine Revised
Statutes, Title 17-A, section 253, subsection 6 reflects a
current statutory recognition of this critical process.