

MAINE STATE LEGISLATURE

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L.D. 544

DATE: May 31, 1995

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CRIMINAL JUSTICE

Reported by: Senator BENOIT of Franklin for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 201, L.D. 544, Bill, "An Act to Reduce the Amount of Good Time and Meritorious Good Time Available to Persons Sentenced to Terms of Imprisonment"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 17-A MRSA §1252-B, as enacted by PL 1987, c. 808, §2, is repealed and the following enacted in its place:

§1252-B. Imposition of sentence; consideration of good time and meritorious good time at the time of sentencing

1. If a court imposes a sentencing alternative pursuant to section 1152 that includes a term of imprisonment, in setting the appropriate length of that term, as well as an unsuspended portion of that term, if any, the court shall consider the potential impact of deductions under section 1253, subsections 3, 3-B, 4 and 5.

2. For persons who commit crimes on or after October 1, 1995, section 1253, subsection 8 substantially reduces the statutory deductions available under subsections 3 and 3-B for good time and under subsections 4 and 5 for meritorious good time. The change is intended to ensure that the term of imprisonment imposed closely approximates what will in fact be served and to abandon administrative awards that have seriously imperiled the State's statutory scheme relative to authorized

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2 terms of imprisonment for murder under section 1251 and for
3 crimes other than murder under section 1252, subsection 2. At
4 the same time that it reduces these statutory deductions,
5 however, the Legislature intends that the parties in requesting
6 or recommending dispositions and the sentencing courts, who
7 ultimately impose sentences, to the extent that they have imposed
8 longer terms of imprisonment in an effort to compensate for the
9 impact of substantial good time and meritorious good time
10 deductions, must make, pursuant to this subsection, the necessary
11 adjustments in their sentencing decisions in view of the
12 substantially reduced deductions. Application of section 1253,
13 subsection 8 to the sentencing process must be reflected in the
14 imposition of shorter terms of imprisonment by courts.

15 **Sec. 2. 17-A MRSA §1253, sub-§6-A,** as amended by PL 1989, c.
16 104, Pt. C, §§8 and 10, is further amended to read:

17 **6-A.** When a judgment of conviction involving a term of
18 imprisonment is vacated or a sentence involving a term of
19 imprisonment is revised or reviewed and a new sentence involving
20 a term of imprisonment is thereafter imposed upon the person for
21 the same offense, day-for-day credit shall must be accorded on
22 the new sentence both for each day the person served in execution
23 of the initial sentence and for all previously earned deductions
24 specified in subsections 4 and, 5 and 8 and Title 30-A, section
25 1606. Prior to the day-for-day credit being given on the new
26 sentence, the new sentence shall must, after first having been
27 reduced by any deductions specified in subsection 2 previously or
28 subsequently received, have applied to it the controlling
29 deduction specified in either subsection 3 or 3-B, if applicable.

30 **Sec. 3. 17-A MRSA §1253, sub-§7,** as enacted by PL 1983, c.
31 456, §8, is repealed and the following enacted in its place:

32 **7.** Notwithstanding the fact that subsections 3, 3-B and 4
33 directly address only persons who are committed to the custody of
34 the Department of Corrections, they apply also to persons who are
35 committed to the custody of a sheriff. Subsection 5 does not
36 apply to persons who are committed to the custody of a sheriff.

37 **Sec. 4. 17-A MRSA §1253, sub-§8** is enacted to read:

38 **8.** For any person who commits a crime on or after October
39 1, 1995 and is subsequently sentenced to a term of imprisonment
40 for that crime, up to 5 days per calendar month may be deducted
41 from that term, calculated from the date of commencement of that
42 term as specified under subsection 1, whose conduct,
43 participation in programs and fulfillment of assigned
44 responsibilities during that month are determined to be warranted
45 in the discretion of the chief administrative officer of the
46 state facility or the sheriff of the county jail.

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2 A. Deductions under this subsection must be calculated as
4 follows for partial calendar months:

<u>Days of partial month</u>	<u>Maximum deduction available</u>
<u>1 to 6 days</u>	<u>up to 1</u>
<u>7 to 12 days</u>	<u>up to 2</u>
<u>13 to 18 days</u>	<u>up to 3</u>
<u>19 to 24 days</u>	<u>up to 4</u>
<u>25 to 31 days</u>	<u>up to 5</u>

12 B. Any portion of the time deducted from the sentence of
14 any person pursuant to this subsection may be withdrawn by
16 the chief administrative officer of the state facility for a
18 disciplinary offense or for the violation of any law of the
20 State in accordance with Title 34-A, section 3032 and the
22 rules adopted under that section, or by the sheriff of the
county jail in accordance with jail disciplinary
procedures. Deductions may be withdrawn for months already
served or yet to be served by the person up to and including
the maximum authorized for that sentence.

24 C. The chief administrative officer of the state facility
26 or the sheriff of the county jail may restore any portion of
28 deductions that have been withdrawn if the person's later
30 conduct, participation in programs and fulfillment of
assigned responsibilities are such that the restoration is
determined to be warranted in the discretion of the chief
administrative officer or sheriff.

32 D. This subsection supersedes subsections 3, 3-B, 4, 5 and
34 6 for persons who commit offenses on or after October 1,
1995.

36 **Sec. 5. Appropriation.** The following funds are appropriated
38 from the General Fund to carry out the purposes of this Act.

1995-96

40 **CORRECTIONS, DEPARTMENT OF**

42 **Administration - Corrections**

44 All Other \$20,000

46 Provides funds for the Department of
48 Corrections to rewrite the computer program
50 used to project prisoner release dates.'

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2 Further amend the bill by inserting at the end before the
statement of fact the following:

4 **FISCAL NOTE**

6 **1995-96**

8 **APPROPRIATIONS/ALLOCATIONS**

10 General Fund \$20,000

12 This bill provides a General Fund appropriation of \$20,000
14 in fiscal year 1995-96 to the Department of Corrections to
rewrite the computer program used to project release dates.

16 The Department of Corrections will also require future
18 additional General Fund appropriations beginning in the 1998-1999
biennium to support the costs associated with increases in the
20 average daily population of the state correctional institutions.
The exact amounts needed to construct and operate the additional
22 cells can not be determined at this time.'

24 **STATEMENT OF FACT**

26 This amendment replaces the bill. This amendment makes
28 fundamental policy changes relative to the current deductions for
good time and meritorious good time under the Maine Revised
Statutes, Title 17-A, section 1253. These fundamental changes
30 apply only to persons committing crimes on or after October 1,
1995 to avoid creating an ex post facto law.

32 The current statutory distinctions made in Title 17-A,
34 section 1253 regarding good time and meritorious good time are
eliminated as to persons committing crimes on or after October 1,
36 1995. A single deduction of up to 5 days per calendar month is
established for all such persons sentenced to imprisonment
38 irrespective of the actual length of imprisonment imposed or the
place of imprisonment. That deduction must be calculated on an
40 as-earned basis, instead of on an up-front basis. The chief
administrative officer of the state facility or the sheriff of
42 the county jail must determine how to allocate the 5 days that
may be earned and deducted per calendar month to best provide an
44 incentive for positive prisoner behavior, utilizing the basic
criteria of conduct, participation in programs and fulfillment of
46 assigned responsibilities. Any portion of the time actually
deducted from the term of imprisonment of an inmate or any
48 portion of time potentially to be deducted, up to and including
the maximum authorized, is subject to withdrawal for a
50 disciplinary offense or for the violation of any state law. The

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2 chief administrative officer of the facility or the sheriff of
3 the county jail makes that determination. An important part of
4 this policy change is that potential deductions not yet awarded
5 are subject to withdrawal for a disciplinary offense or for a
6 violation of any state law. This is true since no portion of the
7 deduction is awarded up-front and the highest risk of misconduct
8 by a prisoner exists during the initial period of confinement, a
9 point in time when little or no good time has actually been
10 deducted. Any good time withdrawn may be restored if the
11 prisoner's later conduct warrants restoration.

12 This amendment also repeals and replaces Title 17-A, section
13 1252-B to make clear that the currently authorized statutory
14 deductions for good time and meritorious good time are not
15 consistent with the Maine Criminal Code's sentencing scheme
16 respecting terms of imprisonment. Under current law, the actual
17 length of sentences served by inmates is significantly less than
18 what the court imposes at sentencing. This disparity not only
19 conflicts with the sentencing policy of the Maine Criminal Code,
20 but also does not reflect the public's desire for truth in
21 sentencing.

22 Separate from the need to significantly reduce good time
23 deductions to reinstate truth in sentencing and to eliminate any
24 impetus for legislatively increasing the current ceiling limits
25 for Class A, Class B, Class C, Class D and Class E crimes and the
26 mandatory minimum for murder is the need for parties and
27 sentencing courts who have been requesting and imposing longer
28 terms of imprisonment to compensate for the administrative
29 deductions required by Title 17-A, section 1252-B, to now, in
30 view of the substantial reductions in these statutory deductions,
31 necessarily adjust terms of imprisonment to be imposed downward.
32 This downward adjustment is absolutely critical to carry out the
33 considered legislative judgment because failure of the parties
34 and the courts to do so will significantly lengthen the actual
35 periods of incarceration to be served, placing an additional
36 unwanted and unneeded strain on the State's overburdened state
37 correctional facilities and county jails.

38 The Department of Corrections has prepared the following
39 correctional impact statement pursuant to the Maine Revised
40 Statutes, Title 34-A, section 1402: "The proposed revisions to
41 L.D. 544, An Act to Reduce the Amount of Good Time and
42 Meritorious Good Time Available to Persons Sentenced to Terms of
43 Imprisonment would reduce the maximum amount of good time
44 available to sentenced prisoners from 15 days a month to 5 days
45 a month for prisoners convicted of crimes committed after October
46 1, 1995. The revised version of L.D. 544 is intended to ensure
47 that sentences imposed more closely approximate what a prisoner
48 will, in fact, serve. In doing so, the court is required to take
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2 into account the substantial reduction in good time available and
 4 make necessary adjustments resulting in shorter terms of
 6 imprisonment in the vast majority of cases. It is anticipated
 8 that this revised L.D. would result in longer lengths of stay
 10 only for those prisoners who receive sentences in the upper
 12 sentencing range characterized as the fourth sentencing
 14 quadrant. Those sentences that would fall within the mid to
 16 lower sentencing range would result in relatively the same
 18 lengths of stay. This impact, which is at best an educated
 20 guess, attempts to look at the upper sentencing range which would
 22 result in longer lengths of stays. The following defines the
 24 upper sentencing quadrant in number of years for murder and Class
 26 A, Class B and Class C offenses.

	<u>Offense</u>	<u>4th Quad</u>
16	Murder	60 years + (excludes natural life)
18	Class A	15 to 20 years
20	Class A	30 to 40 years
	Class B	7.5 years to 10 years
	Class C	4 and 5 years

22 The projected increased cost, based on the average sentence
 24 length, that could result from the reduction of available good
 26 time (15 to 5 days) for the upper sentencing quadrant for murder
 and Class A, Class B and Class C offenses as compared to existing
 good time provisions, is as follows:

28 EXISTING GOOD TIME PROVISIONS

30	# Sentences by	Average	Good Time	Average	\$ Each
32	Offense Class	Sentence		Length of	Sentence
				Stay	
34	Murder	65.5 yrs	25.3 yrs	40.2 yrs	\$1,122,555
36	Class A				
38	30-40 yrs	34.0 yrs	13.0 yrs	21.0 yrs	586,450
40	Class A				
	15-20 yrs	18.0 yrs	7.0 yrs	11.0 yrs	307,188
42	Class B				
44	7.5-10 yrs	8.75 yrs	3.5 yrs	5.25 yrs	144,221
46	Class C				
	4-5 yrs	4.5 yrs	1.75 yrs	2.75 yrs	78,805

48 REVISED LD 544 PROPOSED GOOD TIME PROVISIONS

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	# Sentences by Offense Class	Average Sentence	Good Time	Average Length of Stay	\$ Each Sentence
2					
4	Murder	65.5 yrs	9.25 yrs	56.25 yrs	\$1,570,000
6	Class A				
8	30-40 yrs	34.0 yrs	4.8 yrs	29.2 yrs	815,444
10	Class A				
12	15-20 yrs	18.0 yrs	2.5 yrs	15.5 yrs	432,855
14	Class B				
16	7.5-10 yrs	8.75 yrs	1.25 yrs	7.5 yrs	209,446
18	Class C				
	4-5 yrs	4.5 yrs	.7 yrs	3.8 yrs	106,119

CHANGES RESULTING FROM PRESENT TO PROPOSED REDUCTIONS

	# Sentences by Offense Class	Average Sentence	Good Time	Average Length of Stay	\$ Each Sentence
22					
24	Murder	65.5 yrs	-16.05 yrs	+16.05 yrs	+\$447,445
28	Class A				
30	30-40 yrs	34.0 yrs	-8.2 yrs	+8.2 yrs	+\$228,944
32	Class A				
34	15-20 yrs	18.0 yrs	-4.5 yrs	+4.5 yrs	+\$125,667
36	Class B				
38	7.5-10 yrs	8.75 yrs	-2.25 yrs	+2.25 yrs	+\$65,225
40	Class C				
42	4-5 yrs	4.5 yrs	-1.05 yrs	+1.05 yrs	+\$27,314

SCHEDULE OF IMPACT

42 Murder. If an inmate were to be sentenced in the upper
44 quadrant for murder in October of 1995, the prisoner's increased
46 length of stay would not have a correctional impact until the
48 year 2035. The projected additional cost resulting from the
increased length of stay of each sentence, \$447,445, would be
over 16 years with a fiscal impact of about \$55,930 per sentence
per biennium. At the present time there are 21 inmates serving
time in this quadrant. Given the length of sentences in this

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2 quadrant, it is likely that some inmates would not live out the length of their sentence.

4 Class A, 30-40 years. If an inmate were to be sentenced in
6 the upper 30-40 year quadrant for a Class A offense in October of
8 1995, the prisoner's increased length of stay would not have a
10 correctional impact until the year 2016. The projected
12 additional cost resulting from the increased length of stay of
each sentence, \$228,994 would be over 13 years with a fiscal
14 impact of about \$55,930 per sentence per biennium. At the
present time there are 67 inmates serving time in this quadrant.
Given the length of sentences in this quadrant, it is likely that
some inmates would not live out the length of their sentence.

16 Class A, 15-20 years. If an inmate were to be sentenced in
18 the upper 15-20 year quadrant for a Class A offense in October of
20 1995, the prisoner's increased length of stay would not have a
22 correctional impact until the year 2006. The projected
additional cost resulting from the increased length of stay of
each sentence, \$125,667 would be over 8 years with a fiscal
impact of about \$55,930 per sentence per biennium. At the
present time there are 242 inmates serving time in this quadrant.

24 Class B, 7.5-10 years. If an inmate were to be sentenced in
26 the upper 7.5-10 year quadrant for a Class B offense in October
of 1995, the prisoner's increased length of stay would not have a
28 correctional impact until the year 2000. The projected
additional cost resulting from the increased length of stay of
30 each sentence, \$65,225 would be over 2 years with a fiscal impact
of about \$55,930 per sentence per biennium. At the present time
there are 159 inmates serving time in this quadrant.

32 Class C, 4-5 years. If an inmate were to be sentenced in
34 the upper 4-5 year quadrant for a Class C offense in October of
1995, the prisoner's increased length of stay would not have a
36 correctional impact until the year 1998. The projected
additional cost resulting from the increased length of stay of
38 each sentence, \$27,314 would have a fiscal impact of about
\$27,314 per sentence in the 2nd year of the 1998 biennium. At
40 the present time there are 223 inmates serving sentences in this
quadrant.

42 In addition to the above impact, the Bureau of Information
44 Services estimates that it will cost about \$20,000 in this
46 biennium to rewrite the department's existing release computation
software program to project release dates based on reduced good
48 time for those sentenced after October 1, 1995."

This amendment also adds a fiscal note to the bill.