

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1396

H.P. 1004

House of Representatives, March 5, 1997

An Act to Provide for Shock Incarceration of Juveniles.

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WATERHOUSE of Bridgton.
Cosponsored by Representative UNDERWOOD of Oxford and
Senator BENOIT of Franklin and
Representatives: BUCK of Yarmouth, CLUKEY of Houlton, O'NEAL of Limestone,
WHEELER of Bridgewater.

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

Sec. 1. 15 MRSA §3314, sub-§1, ¶J is enacted to read:

J. If the juvenile is at least 17 years of age, the court may commit the juvenile to a shock incarceration program under chapter 508.

Sec. 2. 15 MRSA c. 508 is enacted to read:

CHAPTER 508

SHOCK INCARCERATION PROGRAM

§3351. Shock Incarceration Program established

1. There is established the Shock Incarceration Program, referred to in this chapter as the "program."

2. A sentence to shock incarceration is a sentence to a term of imprisonment. If the program or any essential part of the program is determined by the court to be constitutionally flawed, a person sentenced to a term of shock incarceration serves that sentence at a state facility determined by the Department of Corrections.

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

§3352. Sentences of shock incarceration

1. The court may sentence to the program in a shock incarceration facility a juvenile adjudicated as having committed a juvenile crime, except a crime specified in section 3353, subsection 1, paragraph F. The term of incarceration in a shock incarceration facility may not exceed 120 days and must be followed by:

A. A term of imprisonment suspended with probation. The term of incarceration in a shock incarceration facility together with the term of probation may not exceed the maximum term authorized for the crime. The period of probation commences on completion of the term of shock incarceration unless the court orders that probation to commence on an earlier date. The sentence of probation following the program is in accordance with chapter 507.

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

2 3. If a person committed to the program fails to work
4 diligently and productively or fails to obey the rules of
6 behavior established for the program or is otherwise considered
8 by the Department of Corrections no longer suitable for the
program, the department may petition the court to terminate the
shock incarceration provision of that person's sentence and the
person must serve the sentence imposed at a state facility
determined by the department.

10 **§3353. Eligibility for sentence to program**

12 1. A person may not be committed to a term of shock
14 incarceration unless all of the following requirements are met.

16 A. The person petitions the court for placement in a shock
18 incarceration facility.

20 B. The person is 17 years of age at the time of sentencing.

22 C. The person has never served a period of incarceration in
24 a shock incarceration facility or other state or federal
26 correctional facility.

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

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

36 F. The person has not been adjudicated as having committed
38 murder, gross sexual assault or any offense involving
40 violence.

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

46 H. The court determines that:

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

(2) The person is suitable for the program.

Sec. 5. 34-A MRSA §5402, sub-§2, ¶¶A and B, as amended by PL
1995, c. 502, Pt. F, §34, are further amended to read:

A. Prømulgate Adopt and enforce rules for field probation
and parole officers, juvenile caseworkers, parole officers

2 in correctional facilities and, Intensive Supervision
Program officers and Shock Incarceration Program officers;

4 B. Appoint, subject to the Civil Service Law, regional
6 correctional administrators, field probation and parole
officers, juvenile caseworkers, Intensive Supervision
8 Program officers, Shock Incarceration Program officers and
adequate supervision of all probationers, parolees from the
10 correctional facilities, persons on intensive supervision
and other persons placed under the supervision of an
12 employee listed in this paragraph;

14 **Sec. 6. 34-A MRSA §5402, sub-§2, ¶D**, as amended by PL 1985, c.
16 821, §28, is further amended to read:

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

24 **Sec. 7. 34-A MRSA §5402, sub-§2, ¶K**, as amended by PL 1989, c.
417, §1, is further amended to read:

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

30 **Sec. 8. 34-A MRSA §5402, sub-§2, ¶L**, as amended by PL 1989, c.
32 417, §2, is further amended to read:

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

36 **Sec. 9. 34-A MRSA §5402, sub-§2, ¶M**, as amended by PL 1995, c.
38 502, Pt. F, §34, is further amended to read:

40 M. Aggregate the statistics contained in any reports the
department receives on individual probationers and make the
42 aggregated statistics available to other state agencies
provided the data is aggregated in such a way that
44 statistics pertaining to any individual probationer can not
be disaggregated; and

46 **Sec. 10. 34-A MRSA §5402, sub-§2, ¶N** is enacted to read:

48 N. Designate institutions as shock incarceration facilities
50 for housing and training juveniles eligible for shock
incarceration under Title 15, chapter 508 and adopt rules

2 for the Shock Incarceration Program, including rules for
3 program structure and administration, inmate discipline and
4 supervision. Rules adopted pursuant to this paragraph are
5 routine technical rules under Title 5, chapter 375,
6 subchapter II-A. The program must provide physical work,
7 exercise, intensive regimentation and discipline patterned
8 after military basic training.

9
10 **Sec. 11. 34-A MRSA §5404, first ¶,** as amended by PL 1995, c.
11 502, Pt. F, §36, is further amended to read:

12 In addition to duties prescribed by the commissioner and by
13 the court having jurisdiction, a probation and parole or
14 intensive-supervision program, Intensive Supervision Program or
15 Shock Incarceration Program officer shall:

16 **Sec. 12. 34-A MRSA §5404, sub-§1,** as amended by PL 1989, c.
17 127, §14, is further amended to read:

18
19 **1. Investigation.** Investigate any criminal case or matter
20 concerning probation, parole or intensive supervision or shock
21 incarceration referred to the officer for investigation and
22 report the result of the investigation;

23
24 **Sec. 13. 34-A MRSA §5404, sub-§2, ¶C,** as amended by PL 1995,
25 c. 502, Pt. F, §37, is further amended to read:

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27 C. If the officer has probable cause to believe that a
28 person under the supervision of the department has violated
29 a condition of that person's probation or parole or
30 intensive supervision or shock incarceration, the officer
31 may arrest that person.

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

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36 A. Supervise the probation, parole or intensive
37 supervision or shock incarceration of each person placed
38 under the officer's supervision;

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42 **SUMMARY**

43 This bill establishes the Shock Incarceration Program as a
44 new sentencing alternative for juveniles who are 17 years of
45 age. A person sentenced to the program completes the
46 incarceration portion of the sentence in a facility providing
47 intensive regimentation and discipline patterned after military
48 basic training. To be eligible for shock incarceration, the
49 person may not have spent time in a correctional facility, must
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2 be physically and mentally able to participate in the program and
3 may not have committed murder, gross sexual assault or any
4 offense involving violence. The Department of Corrections and
5 the court must agree that the person is eligible for sentencing
6 to the Shock Incarceration Program. The maximum sentence of
7 incarceration in a shock incarceration facility is 120 days. The
8 bill requires the Commissioner of Corrections to designate
institutions as shock incarceration facilities and to adopt rules
for the Shock Incarceration Program.