

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1592

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H.P. 1136

House of Representatives, March 19, 1997

**An Act to Require Post-release Supervision of Prisoners Who Are Identified as High-risk Offenders.**

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Submitted by the Department of Corrections pursuant to Joint Rule 204.  
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BUNKER of Kossuth Township.  
Cosponsored by Representatives: McALEVEY of Waterboro, TOBIN of Dexter, WHEELER of Bridgewater.

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

2  
3 Sec. 1. 17-A MRSA §1152, sub-§2, ¶H, as amended by PL 1995, c.  
4 136, §2, is further amended to read:

5 H. A county jail reimbursement fee as authorized by chapter  
6 54-B; or

7  
8  
9 Sec. 2. 17-A MRSA §1152, sub-§2, ¶I, as enacted by PL 1995, c.  
10 136, §3, is amended to read:

11 I. A specified number of hours of community service work as  
12 authorized by chapter 54-C; or

13  
14 Sec. 3. 17-A MRSA §1152, sub-§2, ¶J is enacted to read:

15 J. A term of imprisonment with post-release supervision as  
16 authorized by chapter 51-A.

17  
18  
19 Sec. 4. 17-A MRSA c. 51-A is enacted to read:

20  
21 **CHAPTER 51-A**

22  
23 **POST-RELEASE SUPERVISION**

24  
25 **§1259. Sentences of imprisonment with post-release supervision**

26  
27 The court may sentence a person who commits a crime on or  
28 after October 1, 1997 to a term of imprisonment followed by a  
29 period of post-release supervision during which the person is  
30 supervised by the Department of Corrections.

31  
32 **§1259-A. Eligibility for imprisonment with post-release**  
33 **supervision**

34  
35  
36 1. No person may be sentenced to imprisonment with  
37 post-release supervision unless:

38  
39 A. The conviction is for murder or a Class A, Class B or  
40 Class C crime under section 202, 203, 208, 253, 254, 255,  
41 301, 401, subsection 2, paragraph A, 651, 802 or 1105,  
42 subsection 1, paragraph C;

43  
44 B. The court determines that a sentence of imprisonment of  
45 at least one year is appropriate;

46  
47 C. The court determines that a sentencing alternative that  
48 includes a period of probation is not appropriate; and

49  
50 D. The court determines that there is a high risk that if  
51 not supervised after release the person will commit another  
52 crime specified in paragraph A.

2           2. The court may ask the Department of Corrections to  
4 provide a presentence investigation or a risk assessment, which  
6 the court may use in determining whether the risk in subsection  
1, paragraph D exists. The court may continue sentencing pending  
completion of a presentence investigation or a risk assessment.

8           **§1259-B. Period of post-release supervision**

10           1. If the requirements of section 1259-A are fulfilled, the  
12 court may sentence the person to imprisonment for not less than  
14 one year and not more than the maximum term authorized for the  
crime followed by a period of post-release supervision. No  
portion of the term of imprisonment may be suspended.

16           2. The period of post-release supervision must be as  
18 follows.

20           A. If the term of imprisonment does not exceed 5 years, the  
period of post-release supervision is one year.

22           B. If the term of imprisonment exceeds 5 years but does not  
24 exceed 10 years, the period of post-release supervision is 2  
years.

26           C. If the term of imprisonment exceeds 10 years but does  
28 not exceed 20 years, the term of post-release supervision is  
3 years.

30           D. If the term of imprisonment exceeds 20 years, the period  
32 of post-release supervision is 4 years.

34           **§1259-C. Conditions of post-release supervision**

36           1. It is a condition of post-release supervision that:

38           A. Prior to release from imprisonment, the person receive  
40 written approval from the Department of Corrections for a  
42 post-release plan. The plan must include, at a minimum, the  
44 person's places of residence and work or education as well  
as any necessary counseling or other treatment. Any change  
in the post-release plan, whether before or after the  
person's release, must be approved in writing by the  
Department of Corrections;

46           B. The person abide by state and federal criminal laws and  
48 by the requirements of the post-release plan;

50           C. The person remain within the State, unless permission to  
leave temporarily is granted in writing by the probation  
52 officer; and

2 D. The person report as directed to the probation officer,  
3 answer all reasonable inquiries by the probation officer and  
4 permit the probation officer to visit the person, at  
5 reasonable times, at home and elsewhere.

6 2. The court may impose any other conditions reasonably  
7 related to reducing the risk that the person will reoffend.

8 **§1259-D. Modification of conditions**

10 During the period of post-release supervision, and upon  
11 application of a person on post-release supervision, the person's  
12 probation officer, or upon its own motion, the court may, after a  
13 hearing upon notice to the probation officer and the person on  
14 post-release supervision, modify the requirements imposed by the  
15 court or the post-release plan, add further requirements  
16 authorized by section 1259-C, subsection 2, or relieve the person  
17 of any requirement imposed by the court or the post-release plan  
18 that, in its opinion, imposes on the person an unreasonable  
19 burden, provided that the court may not modify or relieve the  
20 person of the requirement that there be a post-release plan with  
21 the minimum contents set out in section 1259-C, subsection 1,  
22 paragraph A, or the requirements of section 1259-C, subsection 1,  
23 paragraphs B, C and D.

24 **§1259-E. Termination of post-release supervision**

25 1. Upon probably cause to believe that a person on  
26 post-release supervision has violated any condition of that  
27 supervision, including any requirement of the post-release plan,  
28 a probation officer may commence post-release supervision  
29 termination proceedings. The provisions under section 1205 apply.

30 2. If post-release supervision termination proceedings are  
31 commenced, the preliminary hearing and court hearing procedures  
32 under section 1205-A and 1206 must be followed. If the court  
33 finds by a preponderance of the evidence that the person has  
34 violated any condition of post-release supervision, the court may  
35 commit the person to the Department of Corrections to serve, in  
36 institutional confinement, the balance of the period of  
37 post-release supervision. In no case may the court order the  
38 person to serve in institutional confinement only a part of that  
39 balance. A person ordered to serve the balance of the period of  
40 post-release supervision in institutional confinement shall serve  
41 it, subject to the provisions of section 1253, regardless of  
42 whether the time served in institutional confinement would, in  
43 total, exceed the maximum term of imprisonment otherwise  
44 authorized for the crime.

45 3. Except as otherwise specified in section 1259-F, the  
46 provisions governing multiple sentences of imprisonment under  
47 section 1206 apply.

2        4. Review of the court's order must be by direct appeal.  
3        The provisions under section 1207 apply.

4        **§1259-F. Sentence for crime committed by person on post-release**  
5        **supervision**

6        A person who violates the conditions of post-release  
7        supervision by committing a crime of a type specified in section  
8        1259-A, subsection 1, paragraph A and who is sentenced for that  
9        crime to a term of imprisonment and committed to the Department  
10       of Corrections may be ordered to serve that sentence to commence  
11       from the date of the termination of institutional confinement  
12       imposed pursuant to section 1259-E solely because the person  
13       committed the crime while on post-release supervision.

14       **§1259-G. Fees**

15       Section 1204, subsections 1-A and 1-B apply to the period of  
16       post-release supervision of a sentence imposed under this chapter.

17       **Sec. 5. 34-A MRS §5404, sub-§3, ¶A**, as amended by PL 1989, c.  
18       127, §14, is further amended to read:

19       A. Supervise the probation, parole, post-release  
20       supervision or intensive supervision of each person placed  
21       under the officer's supervision;

22       **SUMMARY**

23       This bill allows the courts to sentence to a period of  
24       post-release supervision a person who commits a violent or sexual  
25       offense for which they are sentenced to an unsuspended term of  
26       imprisonment of at least one year if the court determines that  
27       the person is at high risk of being a repeat offender. It also  
28       sets out the parameters of the post-release supervision and of  
29       its termination.