

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 791

H.P. 570

House of Representatives, January 28, 1999

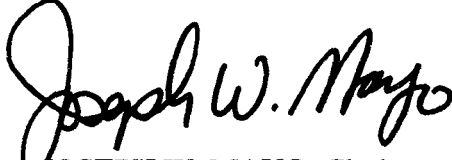
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**An Act to Clarify Sentencing Alternatives Involving Probation and  
Unconditional Discharge Under the Criminal Code.**

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Reported by Representative POVICH for the Criminal Law Advisory Commission  
pursuant to Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Joint Standing Committee on Criminal Justice suggested and printing  
ordered under Joint Rule 218.

  
JOSEPH W. MAYO, Clerk

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

2  
4       **Sec. 1. 17-A MRSA §1152, sub-§2, ¶A**, as repealed and replaced  
by PL 1985, c. 821, §3, is amended to read:

6           A. Unconditional discharge as authorized by chapter 49  
54-D;

8  
10       **Sec. 2. 17-A MRSA §1201**, as amended by PL 1987, c. 361, §3,  
is further amended to read:

12       **§1201. Eligibility for a sentence alternative that includes**  
14           **a period of probation**

16           1. A person who has been convicted of a crime may be  
sentenced to a section 1152 sentencing alternative which that  
18 includes a period of probation ~~or to the sentencing alternative~~  
~~of unconditional discharge~~, unless:

20           A. The conviction is for murder;

22           B. The statute which that the person is convicted of  
violating expressly provides that the fine and imprisonment  
24 penalties it authorizes may not be suspended, in which case  
the convicted person shall must be sentenced to the  
26 imprisonment and required to pay the fine authorized  
therein; or

28           ~~C. The court finds that there is an undue risk that during~~  
30 ~~the period of probation the convicted person would commit~~  
~~another crime; or~~

32           D. The court finds that such a sentence would diminish the  
34 gravity of the crime for which he that person was convicted.

36           2. A convicted person who is eligible for sentence under  
this chapter, as provided in subsection 1, shall may be sentenced  
38 to a sentencing alternative that includes a period of probation  
if he the person is in need of the supervision, guidance,  
40 assistance or direction that probation can provide. ~~If there is~~  
~~no such need, and no proper purpose would be served by imposing~~  
42 ~~any condition or supervision on his release, he shall be~~  
~~sentenced to an unconditional discharge. A sentence of~~  
44 ~~unconditional discharge is for all purposes a final judgment of~~  
conviction.

46  
48       **Sec. 3. 17-A MRSA §1203, sub-§1**, as amended by PL 1995, c.  
425, §1, is further amended to read:

2           1. The court may sentence a person to a term of  
3 imprisonment, not to exceed the maximum term authorized for the  
4 crime, an initial portion of which shall must be served and the  
5 remainder of which shall must be suspended, and accompany that  
6 term with a period of probation not to exceed the maximum period  
7 authorized for the crime. As to both the suspended and  
8 unsuspended portions of the sentense term of imprisonment, the  
9 place of imprisonment must be as follows.

10           A. For a Class D or Class E crime the court must shall  
11 specify a county jail as the place of imprisonment.

12           B. For a Class A, Class B or Class C crime the court must  
13 shall:

14           (1) Specify a county jail as the place of imprisonment  
15 for any portion of the sentence that is 9 months or  
16 less; and

17           (2) Commit the person to the Department of Corrections  
18 for any portion of the sentence that is more than 9  
19 months.

20           The period of probation commences on the date the person is  
21 released from the initial unsuspended portion of the term of  
22 imprisonment, unless the court orders it to commence on an  
23 earlier date. If the period of probation commences upon release  
24 of the person from the initial unsuspended portion of the term of  
25 imprisonment, the court may revoke probation for any criminal  
26 conduct committed during that initial period of imprisonment.

27           Sec. 4. 17-A MRS A §1203-C is enacted to read:

28           §1203-C. Wholly suspended sentence with probation

29           The court may sentence a person to a term of imprisonment  
30 not to exceed the maximum term authorized for the crime, suspend  
31 the entire term of imprisonment and accompany the suspension with  
32 a period of probation not to exceed the maximum period authorized  
33 for the crime, to commence on the date the person goes into  
34 actual execution of the sentence.

35           Sec. 5. 17-A MRS A c. 54-D is enacted to read:

36           CHAPTER 54-D  
37           UNCONDITIONAL DISCHARGE

