

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1202

S.P. 413

In Senate, February 11, 1999

An Act to Ensure Just Sentences.

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

4 **Sec. 1. 17-A MRSA §1251**, as repealed and replaced by PL 1983,
c. 673, §3, is amended to read:

6 **§1251. Imprisonment for murder**

8 A person convicted of the crime of murder shall must be
10 sentenced to imprisonment for life or for any term of years that
is not less than ~~25~~ 20. The sentence of the court shall must
12 specify the length of the sentence to be served and shall must
commit the person to the Department of Corrections.

14 **Sec. 2. 17-A MRSA §1252, sub-§5-A**, as enacted by PL 1987, c.
535, §7, is repealed.

16 **Sec. 3. 17-A MRSA §1252, sub-§5-B** is enacted to read:

18 5-B. Whenever a mandatory minimum sentence of a fine or
20 term of imprisonment is called for, the court may nevertheless
impose a sentence other than such minimum fine or term of
22 imprisonment only if the court finds that a deviation from the
mandatory minimum sentence will not diminish the gravity of the
24 offense or adversely affect the public safety and that imposition
of the mandatory minimum sentence would result in substantial
26 injustice and frustrate the general purposes of sentencing.

28 In determining whether a deviation from the mandatory minimum
sentence is warranted, the court shall consider all relevant
30 factors, including:

32 A. Whether the criminal act for which the defendant stands
convicted was an aberration in the life of the defendant;

34 B. Whether the age, background, physical or mental
36 condition of the defendant or the defendant's family
circumstances militate against the imposition of a mandatory
38 minimum sentence;

40 C. Whether the victim of the offense, the victim's family
or the prosecuting attorney seeks a sentence that is less
42 than the mandatory minimum; and

44 D. Whether the defendant has demonstrated sincere remorse
and a credible understanding of the consequences of the
46 defendant's actions and the defendant has good prospects for
rehabilitation.

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SUMMARY

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6 This bill amends the mandatory minimum sentence for the
crime of murder to accommodate the substantial reduction in
earned good time and meritorious good time effective October 1,
8 1995. The 1995 amendment required that the parties and the
sentencing courts adjust their sentencing recommendations and
10 practices to accommodate the increase in the actual period of
incarceration resulting from the significant decrease in good
12 time. In the case of 25-year minimum sentences, such an
adjustment is not possible. This bill partially addresses this
14 inequity by reducing the minimum mandatory sentence to 20 years.

16

Secondly, this bill provides a "safety valve" for sentencing
18 courts in cases where a mandatory minimum sentence would result
in substantial injustice and a frustration of the general
purposes of sentencing as outlined in the Maine Criminal Code.
20 It allows the court to take into consideration documented
evidence of severe hardship to the offender as well as the wishes
22 of the victim.

24

Finally, this bill removes mandatory minimum sentences for
the crime of aggravated trafficking or furnishing scheduled drugs.