

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2531

H.P. 1804

House of Representatives, January 28, 2000

An Act to Institute a System of Parole for Certain Maine Criminal Code Prisoners.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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 SKOGLUND of St. George.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: BAKER of Bangor, DESMOND of Mapleton, TWOMEY of Biddeford.

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

4 **Sec. 1. 34-A MRSA c. 5, sub-c. VI is enacted to read:**

6 **SUBCHAPTER VI**

8 **PAROLE LAWS FOR CERTAIN MAINE CRIMINAL CODE PRISONERS**

10 **§5821. Applicability**

12 This subchapter applies only to those persons in the custody of the department pursuant to a sentence imposed on or after the effective date of this subchapter.

14 **§5822. Parole of prisoners serving sentence of more than 2 years**

16 **1. General provisions regarding eligibility.** A person convicted of one or more crimes who is incarcerated pursuant to a sentence imposed on or after the effective date of this subchapter, who received a definite sentence or aggregate sentence of more than 2 years and who has been confined under that sentence for not less than 1/2 of the aggregate sentence or 1/2 of the most recent sentence imposed by the court, whichever is greater, may be allowed parole in the discretion of the board if:

26 **A.** It appears from all available information, including any reports from the commissioner that the board may require, that there is reasonable probability that that inmate will live and remain at liberty without violating the law; and

30 **B.** That release is not incompatible with the welfare of society.

34 **2. Lodging, job and support required.** An applicant inmate may not be considered for parole unless that inmate demonstrates to the satisfaction of the board that that inmate has available a safe and secure lodging, a job providing regular and constant income and the support of several law-abiding citizens of the community.

38 **3. Counseling or treatment.** The board may prescribe counseling, treatment or affiliation with a support group.

42 **4. Residence.** At the discretion of the board and under the terms and conditions as may be prescribed by the board, including requiring the parolee to submit personal reports, the parolee must be allowed to return to the parolee's home, to reside in a residential community center or to go elsewhere. The parolee, while on parole, remains in the legal custody and

2 control of the board until the expiration of the maximum term or
3 terms for which the parolee was sentenced. Any parolee released
4 on the condition that the parolee reside in a residential
5 community center may be required to contribute to the cost
6 incidental to that residence. Each order of parole must fix the
7 limits of the parolee's residence, which may be changed in the
8 discretion of the board.

9
10 5. Special appeal to board required. Notwithstanding
11 section 5823, a person convicted of the criminal offense of
12 murder, felony murder, manslaughter, assault in any form,
13 terrorizing, sexual assault or abuse, kidnapping, criminal
14 restraint or any offense in which the underlying facts and
15 circumstances involve the use, attempted use or threatened use of
16 physical force against another person may not be eligible for
17 parole unless the inmate makes special appeal to the board and
18 unless the case is heard by special consideration of the entire
19 board.

20 6. Person convicted of offense for which there is mandatory
21 minimum sentence. A person convicted of an offense for which
22 there is a mandatory minimum sentence that may not be suspended
23 or reduced by the court is not eligible for parole under
24 subsection 1 until that person has served at least 2 years of the
25 definite sentence imposed.

26 **§5823. Parole of prisoner after administrative review**

27
28
29 A person may be paroled without a parole hearing conducted
30 by the board if an employee of the board has reviewed the
31 person's case and recommended parole be granted to that person
32 and this recommendation has been approved by at least 2 members
33 of the board. The board shall conduct a parole hearing if a
34 victim, as defined in section 5825, subsection 1, requests such a
35 hearing. The board shall adopt rules, which are routine
36 technical rules pursuant to Title 5, chapter 375, subchapter
37 II-A, to establish criteria and procedures for the administrative
38 review and release of inmates without a parole hearing as
39 provided in this section.

40
41 **§5824. Sexual offender treatment as precondition for parole**
42 **hearing**

43
44 The board, within available appropriations and as informed
45 by specific documentation provided by and under counsel of
46 medical specialists, may require an inmate to undergo specialized
47 sexual offender treatment for at least one year before the board
48 schedules a date for a hearing to consider that inmate's
49 eligibility for parole.

2 **§5825. Testimony of crime victim at parole hearing**

4 **1. Definition.** For purposes of this section, unless the
6 context otherwise indicates, the term "victim" means the victim,
the legal representative of the victim or a member of a deceased
victim's immediate family.

8 **2. Victim may appear before board.** At any hearing held for
10 the purpose of determining the eligibility for parole of an
inmate incarcerated for the commission of murder; a Class A, B or
12 C crime; or a crime described in Title 17-A, chapter 9, 11 or 13,
the board shall ensure that any victim of the crime for which the
14 inmate is incarcerated may appear before the board to make a
statement concerning whether the inmate should be released on
16 parole or about the nature of any terms or conditions to be
imposed upon such a release. The board also shall ensure that a
18 victim has been fully apprised of board meeting times and places,
about access concerns and about assistance with transportation
20 and other logistics as they may arise. In lieu of such an
appearance, a victim may submit a written statement to the board
22 and the board shall make that statement a part of the record at
the parole hearing.

24 **§5826. Violations of parole; crime committed by parolee;
26 discharge from parole**

28 The provisions of sections 5806 to 5809 regarding violations
30 of parole, a crime committed by a parolee and discharge from
parole apply to a person subject to this subchapter.

32 **§5827. Employment of paroled or discharged prisoner**

34 The commissioner and designated department employees shall
36 make all reasonable efforts to secure employment and provide
directly or by contract other necessary services for any convict
38 or inmate paroled or discharged from the custody of the
commissioner and any institution of the department. The agents
40 assigned to carry out such responsibilities of assisting in
accessing necessary training and education, arranging employment
42 interviews, developing work-capability and expertise statements,
and similar responsibilities, may interview inmates of
44 correctional institutions prior to discharge.

46 **§5828. Medical parole**

48 **1. Definition.** For purposes of this section, unless the
context otherwise indicates, the term "terminal condition,
disease or syndrome" includes, but is not limited to, any

2 prognosis by a licensed physician that the inmate has 6 months or
3 less to live.

4 2. Release of inmate on medical parole. The board may
5 determine when and under what conditions an inmate serving any
6 sentence of imprisonment may be released on medical parole.

8 3. Eligibility. The board may release on medical parole
9 any inmate serving any sentence of imprisonment except an inmate
10 convicted of a formerly capital offense, as defined in Title 15,
11 section 1003, subsection 6, who has been diagnosed as suffering
12 from a terminal condition, disease or syndrome and is so
13 debilitated or incapacitated by that condition, disease or
14 syndrome as to be physically incapable of presenting a danger to
15 society. The board may release such an inmate at any time during
16 the term of that inmate's sentence.

18 4. Medical diagnosis. A diagnosis that an inmate is
19 suffering from a terminal condition, disease or syndrome must be
20 made by a physician licensed in this State and include, but may
21 not be limited to the following:

22 A. A description of the terminal condition, disease or
23 syndrome;

24 B. A prognosis concerning the likelihood of recovery from
25 the condition, disease or syndrome; and

26 C. A description of the inmate's physical incapacity.
27

28
29 A diagnosis made by a physician other than one employed by the
30 department or a hospital or medical facility used by the
31 department for medical treatment of inmates may be reviewed by a
32 physician appointed by the commissioner or reviewed by the
33 medical director of the department.
34

35 5. Conditions of release. The following govern conditions
36 of release.

37 A. The board shall require as a condition of release on
38 medical parole that the parolee agree to placement and that
39 the parolee is able to be placed for a definite or
40 indefinite period of time in a hospital or hospice or other
41 housing accommodation suitable to the parolee's medical
42 condition, including the family home of the parolee, as
43 specified by the board.
44

45 B. The board may require periodic diagnoses as a condition
46 of release on medical parole. If after review of
47

2 a diagnosis the board finds that a parolee is no longer so
3 debilitated or incapacitated as to be physically incapable
4 of presenting a danger to society, that parolee must be
5 returned to the custody of the department.

6 6. Request for medical diagnosis. A request for a medical
7 diagnosis in order to determine eligibility for medical parole
8 may be made by the following:

10 A. The board;

12 B. The commissioner;

14 C. A correctional institution warden or superintendent; or

16 D. An inmate or an inmate's spouse, parent, guardian,
17 grandparent, aunt or uncle, sibling, child over 18 years of
18 age or attorney by request made to the board, commissioner,
19 warden or superintendent.

20 7. Special panel; emergency review. The board may appoint
21 a special panel to implement this section. The board or special
22 panel shall review and decide requests for medical parole under
23 this section on an emergency basis and in all cases shall act as
24 quickly as possible.

26

SUMMARY

28

29 This bill permits the State Parole Board to grant parole to
30 a person who was sentenced to a term of imprisonment of at least
31 2 years on or after the effective date of this bill if that
32 person has served at least 1/2 of the sentence and there is a
33 reasonable probability that that person will live and remain at
34 liberty without violating the law and that release is not
35 incompatible with the welfare of society. The person seeking
36 parole must demonstrate that that person has available a safe and
37 secure lodging, a job providing regular and constant income and
38 the support of several law-abiding citizens of the community. A
39 crime victim may appear before the board or submit a statement
40 concerning whether a person should be released on parole or about
41 the nature of any terms or conditions to be imposed upon such
42 release. The board may release on medical parole a person
43 serving a sentence of imprisonment, except a person convicted of
44 a formerly capital offense, if that person has been diagnosed as
45 suffering from a terminal condition, disease or syndrome and is
46 so debilitated or incapacitated by such condition, disease or
47 syndrome as to be physically incapable of presenting a danger to
48 society.