# MAINE STATE LEGISLATURE

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## 120th MAINE LEGISLATURE

### FIRST REGULAR SESSION-2001

Legislative Document

No. 313

H.P. 264

House of Representatives, January 30, 2001

Millient M. Mac Failand

An Act Regarding Prisoner Participation in Public Work Projects or Improvements to Charitable Organizations' Property.

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

MILLICENT M. MacFARLAND, Clerk

Presented by Representative LESSARD of Topsham. (By Request)

Cosponsored by Senator DAVIS of Piscataquis and

Representatives: BRYANT of Dixfield, HASKELL of Milford, USHER of Westbrook.

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

Sec. 1. 30-A MRSA §1605, sub-§1, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Order of release; purpose. Any person sentenced or committed to a county jail for crime, nonpayment of a fine or forfeiture or court order or criminal or civil contempt of court, may be granted by the sheriff the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

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A. Employment;

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- B. Conducting that person's own business or occupation, including, in the case of a person primarily responsible for the family's housekeeping and domestic needs, housekeeping and attending the needs of that family;
- 20 C. Attendance at a weekly religious service;
  - D. Attendance at an educational institution;
- 24 E. Medical treatment;
- F. Voluntary services within the county in which the jail is located; or

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G. To work or provide service to the victim of the crime in accordance with Title 17-A, chapter 54, but only with the express approval of the victim.

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- Sec. 2. 30-A MRSA §1605, sub-§2, as amended by PL 1989, c.
  104, Pt. C, §§8 and 10, is repealed.
  - Sec. 3. 30-A MRSA §1605, sub-§§3, 7 and 9, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

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self-employment income; collection. prisoner is employed for wages or salary, the sheriff shall 40 collect the wages or salary or require the prisoner to turn over the wages or salary in full when received. If the prisoner is 42 self-employed, the self-employment income shall must be turned over to the sheriff as-may-be-ordered-by-the-eeurt. 44 The sheriff shall deposit the income in a trust checking account and shall keep a ledger showing the status of the account of each 46 prisoner. The wages or salaries are not subject to trustee 48 process in the hands of either the employer or the sheriff, and the self-employment income is not subject to trustee process in 50 the hands of the sheriff during the prisoner's term and shall may be disbursed only as provided in this section; but for tax purposes they are income of the prisoner.

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- 7. Employment in other county. The eoust sheriff may by order-authorize the sheriff, to whom the prisoner is committed, to arrange with another sheriff for the employment of the prisoner in the other's county, and while so employed to be in the other's custody, but in other respects to be and continue subject to the commitment.
- 9. Denial of privilege. The sheriff may refuse to permit prisoners to exercise their privileges to leave the jail, as provided in subsection 1, for any breach of discipline or other violation of jail regulations. Any-prisoner-so-disciplined-may petition-either-the-District-Court-er-the-Superior-Court-for-a review-of-that-disciplinary-action---The-court-after-review, shall-make-any-order-that-it-considers-appropriate.
- Sec. 4. 30-A MRSA §1606, sub-§1, as corrected by RR 1991, c.
  20 2, §114, is amended to read:
- 1. Participation in public works projects authorized. 22 sheriff in charge of a county jail may permit certain inmates of 24 that jail to participate in public works-related projects and or in the improvement of property owned by charitable organizations 26 if the public works project or the property of the charitable organization is in the county where the jail is located. sheriff may request payment from charitable organizations for the 2.8 transportation of the prisoners and for the transportation and 30 diem compensation for any guards who accompany prisoners. the purposes of this section, "charitable For organization" means any nonprofit organization organized or 32 incorporated in this State or having a principal place of business in this State that is exempt from federal income 34 taxation under the United States Internal Revenue Code of 1986, 36 Section 501(a), because the nonprofit organization is described in the United States Internal Revenue Code of 1986, Section Before-an-inmate-is-permitted-to-participate-in-this 3.8 501(c)(3). type-of--project, - the -judge-or--justice-who-originally-sentenced 40 the --inmate - to --the --county --jail - must --sign --an --approval --to --the inmate's-participation.
  - Sec. 5. 30-A MRSA §1659, first  $\P$ , as amended by PL 1999, c. 247,  $\S$ 1, is further amended to read:

The sheriff of each county may establish and maintain a home-release monitoring program to permit certain inmates, approved-by-the-court-in-which-they-were-sentenced, to be released and monitored electronically or by intensive supervision by the county and to live at their residences as a portion of the term of incarceration.

Sec. 6. 30-A MRSA §1659, sub-§1, as amended by PL 1999, c. 247, §2, is further amended to read:

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- 1. Petition. A sheriff, upon written request from an inmate eligible for participation in a home-release monitoring program and recommended by the jail administrator, may petition the court-in-which-the-inmate-was-sentenced-for-authorization-to electronically monitor or intensively supervise and to release the inmate to participate in a home-release monitoring program established in that county. Unless-the-eourt-expressly-grants the-privilege-of-home-release,-the-inmate-is-sentenced-to ordinary-confinement.--The-court-may-withdraw-the-privilege-of home-release-at-any-time-by-order-entered-with-or-without-notice of-hearing.--At-the-time-of-granting-this-privilege,-the-court shall-determine-whether-the-inmate-is-responsible-for-the-cost-of participating-in-the-home-release-program-based-on-the-inmate-s ability-to-pay.
- Sec. 7. 30-A MRSA §1659, sub-§4, as enacted by PL 1991, c. 224, is amended to read:

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Termination of the privilege. The sheriff, jail administrator or a designee may terminate an inmate's participation in a home-release monitoring program at any time and return the inmate to confinement for any violation of the conditions the inmate's release. Any---inmate---whose ο£ participation - ic -terminated - may -petition - the -District - Court - or the-Superior-Court-for-a-review-of-that-termination---The-court, after--review,--shall--make--an--order--that--the--court--considers appropriate.

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#### **SUMMARY**

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This bill gives county sheriffs greater control over their increasing costs of boarding prisoners by allowing county sheriffs to make decisions concerning prisoner employment, participation in public works and participation in electronic monitoring and intensive supervision outside the jail. It also makes clear that a prisoner can qualify for a reduced sentence through performing public service work, whether that work is performed on the property of a charitable organization or on property of the county.

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