

MAINE STATE LEGISLATURE

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L.D. 1497

DATE: 5/2/03

(Filing No. H-248)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1094, L.D. 1497, Bill, "An Act To Amend the Laws Pertaining to the Department of Corrections"

Amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 15 MRSA §1105, as enacted by PL 2001, c. 318, §1, is amended to read:

§1105. Alcohol and drug treatment program

As a condition of post-conviction release, the court may impose the condition of participation in an alcohol and drug treatment program for a period not to exceed 24 months pursuant to Title 4, chapter 8. Upon request of the Department of Corrections, the court may require the defendant to pay a substance abuse testing fee as a requirement of participation in the alcohol or drug treatment program. If at any time the court finds probable cause that a defendant released with a condition of participation in an alcohol and drug treatment program has intentionally or knowingly violated any requirement of the defendant's participation in the alcohol or drug treatment program, the court may suspend the order of bail for a period of up to 7 days for any such violation. The defendant must be given an opportunity to personally address the court prior to the suspension of an order of bail under this section. A period of suspension of bail is a period of detention under Title 17-A, section 1253, subsection 2. This section does not restrict the

COMMITTEE AMENDMENT

ability of the court to take actions other than suspension of the order of bail for the violation of a condition of participation in an alcohol and drug treatment program or the ability of the court to entertain a motion to revoke bail under section 1098 and enter any dispositional order allowed under section 1099-A. If the court orders participation in a drug and alcohol treatment program under this section, upon sentencing the court shall consider whether there has been compliance with the program.'

Further amend the bill by striking out all of section 6 and inserting in its place the following:

'Sec. 6. 17-A MRSA §1253, sub-§2, as amended by PL 1997, c. 464, §4, is further amended to read:

2. Each person sentenced to imprisonment who has previously been detained for the conduct for which the sentence is imposed in any state facility or county institution or facility or in any local lockup awaiting trial, during trial, post-trial awaiting sentencing or post-sentencing prior to the date on which the sentence commenced to run either to await transportation to the place of imprisonment specified, or pursuant to court order, and not in execution of any other sentence of confinement, is entitled to receive a day-for-day deduction from the total term of imprisonment required under that sentence. Each person is entitled to receive the same deduction for any such period of detention in any federal, state or county institution, local lockup or similar facility in another jurisdiction, including any detention resulting from being a fugitive from justice, as defined by Title 15, section 201, subsection 4, unless the person is simultaneously being detained for non-Maine conduct.

For the purpose of calculating the day-for-day deduction specified by this subsection, a "day" means 24 hours.

The total term required under the sentence of imprisonment is reduced by the total deduction of this subsection prior to applying any of the other deductions specified in this section or in Title 30-A, section 1606.

The attorney representing this State shall furnish the court, at the time of sentencing or within 10 days thereafter, a statement showing the total deduction of this subsection, to that point in time, and the statement must be attached to the official records of the commitment.

The sheriff or other person upon whom the legal duty is imposed to deliver a sentenced person who ~~is entitled to a deduction for a period of detention post-sentencing~~ has been detained as specified in this subsection shall, ~~at the time~~ within 30 days of

delivery, furnish to the custodian a statement showing the length of that ~~post-sentencing~~ detention. In addition, the transporter shall furnish to the ~~sentencing-court~~ attorney for the State the same statement ~~that-must-be-attached-to-the-official-records-of-the-commitment~~. The custodian shall use the statement furnished to determine the day-for-day deduction to which the person is entitled, if any, unless, within 15 days of its receipt, the attorney for the State furnishes a revised statement to the custodian.'

Further amend the bill by inserting after section 15 the following:

'Sec. 16. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, DEPARTMENT OF

Adult Community Corrections

Initiative: Provides funds for costs associated with substance abuse testing.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$500	\$500
Other Special Revenue Funds Total	<u>\$500</u>	<u>\$500'</u>

SUMMARY

This amendment specifies that, upon the request of the Department of Corrections, the court may order a defendant to pay a substance abuse testing fee as a requirement of participation in the alcohol or drug treatment program. This amendment also gives the attorney for the State an opportunity to review calculations of presentence detention for purposes of determining when a defendant may be released from incarceration. The amendment also adds an appropriation and allocation section.

FISCAL NOTE REQUIRED
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1497

An Act To Amend the Laws Pertaining to the Department of Corrections



LR 1961(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Appropriations/Allocations				
Other Special Revenue Funds	\$500	\$500	\$500	\$500
Revenue				
Other Special Revenue Funds	\$500	\$500	\$500	\$500

Fiscal Detail and Notes

Authorizing the Department of Corrections to request that the court may order certain probationers to pay a substance abuse testing fee will result in an increase in dedicated revenue and require a corresponding Other Special Revenue allocation of \$500 annually.