

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 638

H.P. 471

House of Representatives, February 8, 2005

An Act To Protect Public Safety and Help Offenders Return Safely to the Community

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FAIRCLOTH of Bangor.
Cosponsored by Representative: BRAUTIGAM of Falmouth.

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

4 **Sec. 1. 17-A MRSA §1201, sub-§1, ¶A-1**, as enacted by PL 2003,
c. 711, Pt. A, §10, is repealed and the following enacted in its
6 place:

8 A-1. The conviction is for a Class D or Class E crime other than:

10 (1) A Class D or Class E crime that was initially
12 charged by the attorney for the State as a Class A,
Class B or Class C crime;

14 (2) A Class D crime committed by a person who has a
16 prior conviction for a Class A, Class B, Class C or
18 Class D crime under this Title; a prior conviction
under Title 29-A, section 2411; or a prior conviction
under Title 29-A, chapter 23, subchapter 5;

20 (3) A Class D crime committed against a family or
22 household member under chapter 9 or 13 or section
506-B, 554, 555 or 758;

24 (4) A Class D or Class E crime in chapter 11 or 12;

26 (5) A Class D or Class E crime under section 556; 854,
28 excluding subsection 1, paragraph A, subparagraph (1);
or 855;

30 (6) A Class D crime under section 804;

32 (7) A Class D crime under section 1107-A, subsection
34 1, paragraph C;

36 (8) A Class D crime under Title 17, section 1031; and

38 (9) A Class D crime under Title 29-A, section 2411,
subsection 1-A, paragraph B.

40 As used in this paragraph, "family or household member" has
42 the same meaning as in Title 19-A, section 4002, subsection
4;

44 **Sec. 2. 17-A MRSA §1202, sub-§1-A, ¶A-1**, as enacted by PL
46 2003, c. 711, Pt. A, §12, is repealed and the following enacted
in its place:

48 A-1. If the State pleads and proves that the person was
50 convicted of a Class A, Class B or Class C crime and has a
prior conviction for a Class A, Class B, Class C or Class D

2 crime under this Title, a prior conviction under Title 29-A,
3 section 2411 or chapter 23, subchapter 5; was convicted of
4 committing against a family or household member a crime
5 under chapter 9 or 13 or section 554; was convicted under
6 chapter 11 or 12 or section 556; was convicted under section
7 1103, subsection 1-A, paragraph A; was convicted under
8 section 1105-A; or was convicted under section 1107-A,
9 subsection 1, paragraph B, the period of probation may not
10 exceed:

11 (1) Six years for a Class A crime; or

12 (2) Four years for a Class B or Class C crime.

13 As used in this paragraph, "family or household member" has
14 the same meaning as in Title 19-A, section 4002, subsection
15 4;

16 **Sec. 3. 17-A MRSA §1253, sub-§9, ¶A-1 is enacted to read:**

17 A-1. For a person who commits a crime, except for a crime
18 set forth in subparagraphs (1) to (6), on or after October
19 1, 2005 and is subsequently sentenced to a term of
20 imprisonment for that crime, up to 3 days per calendar month
21 may be deducted from that term, calculated from the date of
22 commencement of that term as specified under subsection 1,
23 if that person's conduct during that month is such that the
24 deduction is determined to be warranted in the discretion of
25 the chief administrative officer of the state facility or
26 the sheriff of the county jail. Deductions under this
27 paragraph may not be applied to the sentence of a person who
28 commits:

29 (1) Murder;

30 (2) A crime under chapter 11;

31 (3) A crime under section 556;

32 (4) A crime under section 854, excluding subsection 1,
33 paragraph A, subparagraph (1);

34 (5) A crime under chapter 12; or

35 (6) A crime against a family or household member under
36 chapter 9 or 13 or section 506-B, 554, 555 or 758.

37 Deductions under this paragraph must be calculated as
38 follows for partial calendar months:

2	<u>Days of partial month</u>	<u>Maximum</u>
4		<u>deduction</u>
		<u>available</u>
6	<u>1 to 10 days</u>	<u>up to 1</u>
8	<u>11 to 20 days</u>	<u>up to 2</u>
	<u>21 to 31 days</u>	<u>up to 3</u>

Sec. 4. 17-A MRSA §1253, sub-§10, ¶A-1 is enacted to read:

A-1. In addition to the days of deduction provided for in subsection 9, paragraph A, for any person who commits a crime, except for a crime set forth in subparagraphs (1) to (6), on or after October 1, 2005 and is subsequently sentenced to a term of imprisonment for that crime, up to 2 days per calendar month may be deducted from that term, calculated from the date of commencement of that term as specified under subsection 1, if that person's fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs during that month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the state facility or the sheriff of the county jail. Deductions under this paragraph may not be applied to the sentence of a person who commits:

- (1) Murder;
- (2) A crime under chapter 11;
- (3) A crime under section 556;
- (4) A crime under section 854, excluding subsection 1, paragraph A, subparagraph (1);
- (5) A crime under chapter 12; or
- (6) A crime against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758.

Deductions under this paragraph must be calculated as follows for partial calendar months:

44	<u>Days of partial month</u>	<u>Maximum</u>
46		<u>deduction</u>
		<u>available</u>
48	<u>1 to 15 days</u>	<u>up to 1</u>
50	<u>16 to 31 days</u>	<u>up to 2</u>

2

SUMMARY

4 This bill expands the list of Class D and Class E offenses
for which probation may be imposed to include:

6

8 1. A Class D or Class E crime that was initially charged by
the attorney for the State as a Class A, Class B or Class C crime;

10 2. A Class D crime committed by a person who has a prior
conviction for a Class A, Class B, Class C or Class D crime under
12 the Maine Revised Statutes, Title 17-A; a prior conviction under
the laws governing operating under the influence; or a prior
14 conviction under the laws governing habitual offenders;

16 3. A Class D crime for failure to control or report a
dangerous fire;

18 4. A Class D crime for possession of a schedule W drug; and

20 5. A Class D crime for cruelty to animals.

22

24 The bill also expands the list of Class A, Class B and Class
C offenses for which the former statutory length of probation,
which is 6 years for Class A crimes and 4 years for Class B and C
26 crimes, may be imposed. The former statutory length of probation
may be imposed if the State pleads and proves that a person was
28 convicted of a Class A, Class B or Class C crime and has a prior
conviction for a Class A, Class B, Class C or Class D crime under
30 Title 17-A, a prior conviction under the laws governing operating
under the influence or a prior conviction under the laws
32 governing habitual offenders. The former statutory length of
probation may be imposed if the State pleads and proves that a
34 person was convicted of unlawful trafficking in a schedule W
drug, aggravated trafficking of scheduled drugs or certain
36 offenses involving possession of a schedule W drug.

38 The bill also provides that a person sentenced to a term of
imprisonment on or after October 1, 2005 may receive a reduction
40 in that term of imprisonment of up to 3 days per calendar month
for good behavior and up to 2 days per calendar month for
42 fulfillment of responsibilities assigned in the person's
transition plan for work, education or rehabilitation programs.