

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 970

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H.P. 680

House of Representatives, February 24, 2005

### An Act To Improve Sentencing for Serious Offenders

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative GREELEY of Levant.

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

4 **Sec. 1. 17-A MRS §1203, sub-§1-A, ¶D** is enacted to read:

6 D. If a person is sentenced to a term of imprisonment, none  
8 of which is suspended, which is followed by one or more  
10 consecutive terms of imprisonment that are suspended either  
12 in whole or in part, the court may revoke probation in any  
14 of the consecutive sentences for criminal conduct committed  
16 during any period of imprisonment that precedes commencement  
18 of the period of probation.

20 **Sec. 2. 17-A MRS §1252, sub-§4-A,** as repealed and replaced by  
22 PL 2003, c. 688, Pt. A, §14, is amended to read:

24 **4-A.** If the State pleads and proves that, at the time any  
26 crime, excluding murder, under chapter 9, 11, 13 or 27 ~~or~~;  
28 section 402-A, subsection 1, paragraph A; or section 752-A or  
30 752-C was committed, the defendant had been convicted of 2 or  
32 more crimes violating chapter 9, 11, 13 or 27 ~~or~~ section 402-A,  
subsection 1, paragraph A; or section 752-A or 752-C or  
essentially similar crimes in other jurisdictions, the sentencing  
class for the crime is one class higher than it would otherwise  
be. In the case of a Class A crime, the sentencing class is not  
increased, but the prior record must be given serious  
consideration by the court when imposing a sentence. Section 9-A  
governs the use of prior convictions when determining a sentence,  
except that, for the purposes of this subsection, for violations  
under chapter 11, the dates of prior convictions may have  
occurred at any time. This subsection does not apply to section  
210-A if the prior convictions have already served to enhance the  
sentencing class under section 210-A, subsection 1, paragraph C.

34 **Sec. 3. 17-A MRS §1256, sub-§1,** as amended by PL 1999, c.  
36 458, §1, is further amended to read:

38 **1.** Other provisions of this section notwithstanding, when a  
40 person subject to an undischarged term of imprisonment is  
42 convicted of ~~a violation of section 752-A, 755 or 757 or of any~~  
44 ~~other crime against the person of a member of the staff of the~~  
46 ~~institution in which the convicted person was imprisoned or of a~~  
48 ~~violation of section 806 involving government property in the~~  
~~institution in which the convicted person was imprisoned or any~~  
~~other crime against government property in the institution in~~  
~~which the convicted person was imprisoned, any new crime~~ or of an  
attempt to commit any ~~of the crimes mentioned in this subsection~~  
new crime, the sentence is not concurrent with the undischarged  
terms of imprisonment. The court may order that the undischarged  
terms of imprisonment be tolled and service of the nonconcurrent

2 sentence commence immediately and the court shall so order if any  
3 undischarged term of imprisonment is a split sentence. No A  
4 portion of the nonconcurrent sentence may not be suspended. All  
5 sentences that the convicted person receives as a result of the  
6 crimes mentioned in this subsection must be nonconcurrent with  
all other sentences.

8 **Sec. 4. 17-A MRSA §1322, sub-§3**, as repealed and replaced by  
9 PL 1993, c. 305, §1, is amended by amending the first paragraph  
10 to read:

12 **3. Economic loss.** "Economic loss" includes economic  
13 detriment consisting of environmental clean-up expense, property  
14 loss, allowable expense, work loss, replacement services loss  
15 and, if injury causes death, dependent's economic loss and  
16 dependent's replacement services loss. Noneconomic detriment is  
17 not loss. Economic detriment is loss although caused by pain and  
18 suffering or physical impairment. "Economic loss" includes  
19 expenses of an emergency response by any public agency and  
20 critical investigation expenses.

22 **Sec. 5. 17-A MRSA §1322, sub-§3, ¶A-1** is enacted to read:

24 A-1. "Critical investigation expense" means a necessary  
25 expense incurred by a public agency or by a person or  
26 organization while investigating or prosecuting suspected  
27 criminal conduct. "Critical investigation expense"  
28 includes, but is not limited to, the cost of an audit or  
29 other financial analysis when that analysis is necessary to  
30 determine whether and to what extent a victim has suffered  
31 financial harm from criminal conduct by an employee or other  
32 person in a position of trust and the cost of analysis of  
33 physical evidence including suspected illegal drugs.  
34 "Critical investigation expense" does not include the hourly  
35 pay, salary or benefits of law enforcement personnel or the  
36 ordinary administrative costs of a law enforcement agency.

## 38 SUMMARY

40 This bill makes the following changes to the sentencing laws.

42 1. The bill authorizes the court to revoke probation for a  
44 crime committed by an inmate who is serving a sentence that does  
46 not include probation, if the inmate also has a consecutive  
sentence that includes a period of probation.

48 2. The bill specifies that an inmate who commits any crime  
while sentenced may have that sentence interrupted and serve the

2 sentence for the new crime immediately. Currently, that  
3 authority exists only for inmates who commit crimes against  
4 corrections staff or institutional property.

6 3. This bill further expands the list of violent crimes for  
7 which the classification may be increased for violent offenders  
8 to include assaults against law enforcement officers, corrections  
9 officers and emergency medical workers.

10 4. For purposes of determining economic loss that may be  
11 compensated by an order of restitution, this bill defines  
12 "critical investigation expense." "Critical investigation  
13 expense" includes those necessary expenses incurred by a public  
14 agency, person or organization while investigating or prosecuting  
suspected criminal conduct.