

# MAINE STATE LEGISLATURE

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L.D. 1360  
(Filing No. H-597)

DATE: 5/31/05

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CRIMINAL JUSTICE AND PUBLIC SAFETY

Majority

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
122ND LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 943, L.D. 1360, Bill, "An Act To Improve the Management and Safety of State Correctional Facilities"

Amend the bill by striking out all of sections 3 and 4 and inserting in their place the following:

Sec. 3. 17-A MRSA §760 is enacted to read:

§760. Failure to report sexual assault of person in custody

1. A member of the staff of a hospital, prison or other institution who knows that a person detained in that institution is the victim of a crime of sexual assault that occurred while the person was in the institution but does not report that crime to an appropriate criminal justice agency is guilty of failure to report a sexual assault of a person in custody.

2. For purposes of this section, "sexual assault" means a crime under chapter 11.

3. Failure to report a sexual assault of a person in custody is a Class E crime.

Sec. 4. 17-A MRSA §1256, sub-§1, as amended by PL 1999, c. 458, §1, is further amended to read:

1. Other provisions of this section notwithstanding, when a person subject to an undischarged term of imprisonment is convicted of a violation of section 752-A, 755 or 757 or of any other crime against the person of a member of the staff of the

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2 institution in which the convicted person was imprisoned or of a  
violation of section 806 involving government property in the  
4 institution in which the convicted person was imprisoned or any  
other crime against government property in the institution in  
6 which the convicted person was imprisoned, or of an attempt to  
commit any of the crimes mentioned in this subsection crime  
8 committed while in execution of any term of imprisonment or of an  
attempt to commit a crime while in execution of any term of  
10 imprisonment, the sentence is not concurrent with the any  
undischarged terms term of imprisonment. The court may order  
12 that the any undischarged terms term of imprisonment be tolled  
and service of the nonconcurrent sentence commence immediately  
14 and the court shall so order if any undischarged term of  
imprisonment is a split sentence. No portion of the  
nonconcurrent sentence may be suspended. All sentences that the  
16 convicted person receives as a result of the crimes mentioned in  
this subsection must be nonconcurrent with all other sentences.'

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20 Further amend the bill in section 5 in subsection 2-A in the  
3rd line (page 2, line 39 in L.D.) by inserting after the  
following: "facility" the following: 'who is designated by the  
22 sheriff or jail administrator of that county jail or by the  
Commissioner of Corrections and is trained to collect biological  
24 samples'

26 Further amend the bill by striking out all of section 7.

28 Further amend the bill in section 8 in paragraph A in the  
3rd line (page 3, line 15 in L.D.) by striking out the  
30 following: "finest" and inserting in its place the following:  
'monetary sanctions'

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34 Further amend the bill by striking out all of section 9 and  
inserting in its place the following:

36 'Sec. 9. 34-A MRSA §3032, sub-§5-B is enacted to read:

38 5-B. Monetary sanctions. The imposition of monetary  
sanctions at adult correctional facilities is subject to the  
40 following conditions.

42 A. When a monetary sanction is imposed at a facility, a  
prisoner who is subject to that monetary sanction and who is  
44 able to generate money shall pay 25% of that money to the  
facility where the monetary sanction was imposed. The  
46 facility shall collect that money and apply it to defray the  
cost of holding disciplinary hearings.

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50 B. A prisoner who is transferred to another facility  
remains liable for any monetary sanction authorized under

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this chapter. The facility receiving the prisoner shall collect the monetary sanction and transfer it to the facility where the monetary sanction was imposed.

C. A prisoner who is discharged from a facility remains liable for any monetary sanction authorized under this chapter. If the prisoner is returned to the custody of the department, any facility in which the prisoner resides shall collect the monetary sanction and ensure that it is used to defray costs as set out in this chapter.

D. A monetary sanction is not authorized if its imposition would create an excessive financial hardship, as determined by the department, on the dependents of the prisoner. Any payments made for the support of the dependents that are required by the Department of Health and Human Services may not be used for monetary sanction payments.'

Further amend the bill in section 10 in subsection 6 in the first paragraph in the 3rd line (page 4, line 6 in L.D.) by striking out the following: "fines" and inserting in its place the following: 'monetary sanctions'

Further amend the bill by striking out all of sections 11 and 12.

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety and does the following.

1. It amends section 3 of the bill by requiring institutional staff to report to an appropriate law enforcement agency sexual assault that is committed against a person detained in that institution that occurred while the person was in the institution, whether the assault is committed by another staff person or by an another client or patient. The bill criminalizes failure to report only assaults committed by other staff.

2. It amends section 4 of the bill to specify that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately. Currently, that authority exists only for inmates who commit crimes against corrections staff or institutional property.

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2           3. It amends section 5 of the bill by specifying that only  
3 staff members of a county jail or Department of Corrections  
4 facility who are designated by the sheriff or jail administrator  
5 of that county jail or by the Commissioner of Corrections and are  
6 trained to collect biological samples may do so for purposes of  
7 DNA collection.

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9           4. It strikes section 7 of the bill, which replaces  
10 language that states that certain documents in possession of the  
11 department that are used to screen and assess clients are "not  
12 public records" pursuant to the freedom of access laws with  
13 language stating that those are records that "must be kept  
14 confidential," with statutory exceptions. This change is not  
15 necessary, as the department can now deny access to records that  
16 are not public records.

17           5. It amends sections 8, 9 and 10 of the bill by specifying  
18 that the department may impose "monetary sanctions" instead of  
19 "fines" as a form of punishment in correctional facilities.

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21           6. It strikes sections 11 and 12 of the bill, which repeal  
22 the requirement that the commissioner first determine that the  
23 average statewide caseload of probation officers is 90 to one  
24 before increasing the eligibility of prisoners for supervised  
25 community confinement to those with 2 years remaining on the  
26 incarceration portion of their sentence. The bill allows  
27 transfer to the community confinement program when a prisoner has  
28 2 years remaining on the incarceration portion of the sentence,  
29 instead of one year, regardless of the current probation  
30 caseload.

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**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



Approved: 05/19/05 *MAC*

# 122nd MAINE LEGISLATURE

LD 1360

LR 0366(02)

## An Act To Improve the Management and Safety of State Correctional Facilities

Fiscal Note for Bill as Amended by Committee Amendment "A"  
Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Majority Report

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### Fiscal Note

Undetermined revenue increase - General Fund

Minor cost increase - General Fund

### Correctional and Judicial Impact Statements

Establishes a new Class E crime.

The collection of additional fines may increase General Fund revenue by minor amounts.

### Fiscal Detail and Notes

Creating a new supervision fee payment provision for certain probationers and parolees will result in an increase in revenue to the General Fund in an amount that can not be determined at this time.