

# MAINE STATE LEGISLATURE

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H. 058

L.D. 1360 *min*

DATE: 5/31/05

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CRIMINAL JUSTICE AND PUBLIC SAFETY

Minority

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

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

19  
20 Further amend the bill in section 5 in subsection 2-A in the  
21 3rd line (page 2, line 39 in L.D.) by inserting after the  
22 following: "facility" the following: 'who is designated by the  
23 sheriff or jail administrator of that county jail or by the  
24 Commissioner of Corrections and is trained to collect biological  
25 samples'

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

27  
28 Further amend the bill in section 8 in paragraph A in the  
29 3rd line (page 3, line 15 in L.D.) by striking out the  
30 following: "finer" and inserting in its place the following:  
31 'monetary sanctions'

32  
33 Further amend the bill by striking out all of section 9 and  
34 inserting in its place the following:

35  
36 'Sec. 9. 34-A MRSA §3032, sub-§5-B is enacted to read:

37  
38 5-B. Monetary sanctions. The imposition of monetary  
39 sanctions at adult correctional facilities is subject to the  
40 following conditions.

41  
42 A. When a monetary sanction is imposed at a facility, a  
43 prisoner who is subject to that monetary sanction and who is  
44 able to generate money shall pay 25% of that money to the  
45 facility where the monetary sanction was imposed. The  
46 facility shall collect that money and apply it to defray the  
47 cost of holding disciplinary hearings.

48  
49 B. A prisoner who is transferred to another facility  
50 remains liable for any monetary sanction authorized under

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

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

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

18  
19 Further amend the bill in section 10 in subsection 6 in the  
20 first paragraph in the 3rd line (page 4, line 6 in L.D.) by  
21 striking out the following: "fines" and inserting in its place  
22 the following: 'monetary sanctions'

23  
24 Further amend the bill by relettering or renumbering any  
25 nonconsecutive Part letter or section number to read  
26 consecutively.

28  
29  
30 **SUMMARY**

31 This amendment is the minority report of the Joint Standing  
32 Committee on Criminal Justice and Public Safety and makes the  
33 same changes as the majority report except that it does not  
34 strike sections 11 and 12 of the bill, which repeal the  
35 requirement that the Commissioner of Corrections determine that  
36 the average statewide caseload of probation officers is 90 to one  
37 before increasing the eligibility of prisoners for supervised  
38 community confinement to those with 2 years remaining on the  
39 incarceration portion of their sentence. The amendment retains  
40 this language, which allows transfer to the community confinement  
41 program when a prisoner has 2 years remaining on the  
42 incarceration portion of the sentence, instead of one year,  
43 regardless of the current probation caseload.

44  
45  
46  
47  
48 **FISCAL NOTE REQUIRED**  
(See attached)

**COMMITTEE AMENDMENT**



Approved: 05/19/05 *MAC*

# 122nd MAINE LEGISLATURE

LD 1360

LR 0366(03)

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

**Fiscal Note for Bill as Amended by Committee Amendment "B"**

**Committee: Criminal Justice and Public Safety**

**Fiscal Note Required: Yes**

**Minority 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.