

MAINE STATE LEGISLATURE

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DATE: 4/27/06

(Filing No. H-1058)

CRIMINAL JUSTICE AND PUBLIC SAFETY

Majority

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "C" to H.P. 1224, L.D. 1717, Bill, "An Act To Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses against Victims under 12 Years of Age"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Sentencing of Persons Convicted of Gross Sexual Assault against Victims under 12 Years of Age'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 17-A MRSA §1202, sub-§1-A, ¶C, as enacted by PL 2003, c. 711, Pt. B, §16, is repealed.

Sec. 2. 17-A MRSA §1231, as amended by PL 2003, c. 711, Pt. B, §18, is further amended to read:

§1231. Inclusion of period of supervised release after imprisonment

1. The court, in imposing a sentence of a term of imprisonment that does not include probation for a violation of section 253, may include as part of the sentence a requirement that the defendant be placed on a period of supervised release after imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 1254.

1-A. Notwithstanding subsection 1, the court shall impose as part of the sentence a requirement that a defendant convicted

of violating section 253, subsection 1, paragraph C be placed on a period of supervised release after imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 1254 and must include the best available monitoring technology for the duration of the period of supervised release.

2. The authorized period of supervised release is:

A. Any period of years for a person sentenced as a repeat sexual assault offender pursuant to section 1252, subsection 4-B; and

B. For a person not sentenced under section 1252, ~~subsection~~ subsections 4-B or 4-E, a period not to exceed 10 years for a Class A violation of section 253 and a period not to exceed 6 years for a Class B or Class C violation of section 253; and

C. Life for a person sentenced under section 1252, subsection 4-E.

3. During the period of supervised release specified in the sentence made pursuant to subsections 1 and 2, and upon application of a person on supervised release or the person's probation officer, or upon its own motion, the court may, after a hearing upon notice to the probation officer and the person on supervised release, modify the requirements imposed by the court, add further requirements authorized by section 1232, or relieve the person on supervised release of any requirement imposed by the court that, in its opinion, imposes on the person an unreasonable burden.

Notwithstanding this subsection, the court may grant, ex parte, a motion brought by the probation officer to add further requirements if the requirements are immediately necessary to protect the safety of an individual or the public and if all reasonable efforts have been made to give written or oral notice to the person on supervised release. Any requirements added pursuant to an ex parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court will hold a hearing on the added requirements, is given to the person on supervised release.

4. On application of the probation officer, or of the person on supervised release, or on its own motion, and if warranted by the conduct of the person, the court may terminate a period of supervised release and discharge the convicted person at any time earlier than that provided in the sentence made pursuant to subsections 1 and 2. A termination and discharge may

not be ordered upon ~~the motion of the person on supervised~~
2 ~~release~~ unless notice of the motion is given to the probation
3 ~~officer by the person on supervised release and the attorney for~~
4 ~~the State.~~ A termination and discharge relieves the person on
5 supervised release of any obligations imposed by the sentence of
6 supervised release.

8 5. Any justice, in order to comply with section 1256,
9 subsection 8, may terminate a period of supervised release that
10 would delay commencement of a consecutive unsuspended term of
11 imprisonment. Any judge may also do so if that judge has
12 jurisdiction over each of the sentences involved.

14 6. The court may revoke a period of supervised release
15 pursuant to section 1233. If the court revokes a period of
16 supervised release, the court may shall require the person to
17 serve time in prison under the custody of the Department of
18 Corrections. This time in prison may equal all or part of the
19 period of supervised release, without credit for time served on
20 post-release supervision, ~~but may not exceed 1/3 of the straight~~
21 ~~term of imprisonment imposed.~~ The remaining portion of the
22 period of supervised release that is not required to be served in
23 prison remains in effect to be served after the person's release
24 and is subject to revocation at a later date.

26 **Sec. 3. 17-A MRSA §1252, sub-§4-D**, as enacted by PL 2003, c.
27 711, Pt. B, §20, is repealed and the following enacted in its
28 place:

30 4-D. If the State pleads and proves that a crime under
31 section 282 was committed against a person who had not attained
32 12 years of age, the court, in exercising its sentencing
33 discretion, shall give the age of the victim serious
34 consideration.

36 **Sec. 4. 17-A MRSA §1252, sub-§4-E** is enacted to read:

38 4-E. If the State pleads and proves that a crime under
39 section 253 was committed against a person who had not yet
40 attained 12 years of age, the court, notwithstanding subsection
41 2, shall impose a definite term of imprisonment for any term of
42 years. In determining the basic term of imprisonment as the
43 first step in the sentencing process, the court shall select a
44 term of at least 20 years.'

SUMMARY

48 This amendment is the majority report of the Joint Standing
49 Committee on Criminal Justice and Public Safety. This amendment
50

H. 108.

COMMITTEE AMENDMENT "C" to H.P. 1224, L.D. 1717

2 replaces the bill and makes the following changes to the
sentencing laws.

4 The amendment amends the Maine Revised Statutes, Title 17-A,
6 chapter 50, which deals with the supervised release of sex
8 offenders, by specifying that supervised release is not
10 discretionary but required for persons convicted of committing
12 gross sexual assault against a person under 12 years of age. The
14 period of supervised release commences on the date the person is
16 released from confinement, runs for the duration of the person's
18 life and must include the best available monitoring technology.
20 The amendment also specifies that if the court revokes a period
22 of supervised release, the court shall require the person to
serve time in prison under the custody of the Department of
Corrections. This time in prison may equal all or part of the
period of supervised release, without credit for time served on
post-release supervision and without any limitations based on the
prior term of imprisonment, as current law requires. The
remaining portion of the period of supervised release that is not
required to be served in prison remains in effect to be served
after the person's release and again is subject to revocation, if
warranted.

24 The amendment also specifies that if the State pleads and
26 proves that the crime of gross sexual assault was committed
against a person who had not yet attained 12 years of age, the
28 court shall impose a definite term of imprisonment for any term
of years. In determining the basic term of imprisonment as the
30 first step in the sentencing process, pursuant to Title 17-A,
section 1252-C, subsection 1, the court shall select a term of at
least 20 years.

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FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



Approved: 04/26/06 *MAC*

122nd MAINE LEGISLATURE

LD 1717

LR 2770(16)

**An Act to Create Mandatory Minimum Sentences for Persons Convicted of Certain Sex Offenses
against Victims under 12 Years of Age**

Fiscal Note for Bill as Amended by Committee Amendment "C"

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Potential future biennium cost increase - General Fund

Correctional and Judicial Impact Statements:

Establishing a required start period of imprisonment at 20 years and requiring supervised release for life with the best available monitoring technology will increase future correctional costs. The cost of electronic monitoring is estimated to be \$12 per day per person or \$6 per day per person depending on whether real time information is required or delayed information is acceptable.

The Judicial Department has indicated that this legislation will result in fewer cases being resolved without trial, increasing trial and sentencing costs due to additional time requirements for judges, clerks, security, court reporters and indigent defense.