

MAINE STATE LEGISLATURE

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L.D. 1717

DATE: 3-16-06

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

HOUSE AMENDMENT "A" 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 To Strengthen the Sentencing Laws for 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 B, §16, is repealed.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

1003

HOUSE AMENDMENT "A" to H.P. 1224, L.D. 1717

2 of violating section 253, subsection 1, paragraph C be placed on
3 a period of supervised release after imprisonment. The period of
4 supervised release commences on the date the person is released
5 from confinement pursuant to section 1254.

6 2. The authorized period of supervised release is:

8 A. Any period of years for a person sentenced as a repeat
9 sexual assault offender pursuant to section 1252, subsection
10 4-B; and

12 A-1. Life for a person sentenced under section 1252,
13 subsection 4-E; and

14 B. For a person not sentenced under section 1252,
15 subsection 4-B or 4-E, a period not to exceed 10 years for a
16 Class A violation of section 253 and a period not to exceed
17 6 years for a Class B or Class C violation of section 253.

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

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

42 4. On application of the probation officer, or of the
43 person on supervised release, or on its own motion, and if
44 warranted by the conduct of the person, the court may terminate a
45 period of supervised release and discharge the convicted person
46 at any time earlier than that provided in the sentence made
47 pursuant to subsections 1 and 2. A termination and discharge may
48 not be ordered upon the motion of the person on supervised

HOUSE AMENDMENT

release unless notice of the motion is given to the probation officer by the person on supervised release. A termination and discharge relieves the person on supervised release of any obligations imposed by the sentence of supervised release.

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

6. The court may revoke a period of supervised release pursuant to section 1233. If the court revokes a period of supervised release, the court may 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, ~~but may not exceed 1/3 of the straight term of imprisonment imposed.~~ 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 is subject to revocation at a later date.

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

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

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

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not attained 12 years of age, the court, notwithstanding any other provision of this code, shall set a definite period of imprisonment for any term of years or a term of imprisonment for life. If the sentence of imprisonment is less than life, the court shall impose a period of supervised release for life under chapter 50.'

SUMMARY

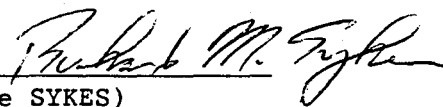
This amendment replaces the bill and makes the following changes to the sentencing laws.

1. The amendment directs the court to impose a sentencing

alternative of a term of imprisonment for any term of years or a term of life for a person convicted of committing gross sexual assault against a person under 12 years of age.

2. The amendment requires that, if a person does not receive a sentence of imprisonment for life for committing gross sexual assault against a person under 12 years of age, the court shall then impose a period of supervised release for life following the period of imprisonment. For this offense, a person would be sentenced to supervised release instead of having a sentencing alternative of probation.

3. The amendment amends the Maine Revised Statutes, Title 17-A, chapter 50, which deals with the supervised release for sex offenders, by specifying that supervised release after release from prison is not discretionary but required for persons convicted of committing gross sexual assault against a person under 12 years of age. The amendment also specifies that if the court revokes a period 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 repeatedly subject to revocation, if warranted.

SPONSORED BY: 
(Representative SYKES)

TOWN: Harrison

FISCAL NOTE REQUIRED
(See attached)



Approved: 03/15/06 *MAC*

122nd MAINE LEGISLATURE

LD 1717

LR 2770(04)

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

Fiscal Note for House Amendment "A"

Sponsor: Rep. Sykes

Fiscal Note Required: Yes

Fiscal Note

Undetermined future biennium cost increase - General Fund

Correctional and Judicial Impact Statements:

This amendment removes the 25 year minimum mandatory sentence contained in the original bill which may result in a reduction in future correctional costs. It also allows judicial discretion to impose any number of years in prison followed by supervised release for life for violators of certain sex offenses which will increase costs to the Department of Corrections. As amended, this legislation will still result in increased costs to the state's correctional system as well as the Judicial Department.