MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 841

H.P. 609

House of Representatives, March 8, 2021

An Act Regarding Probation and Deferred Disposition

Reference to the Committee on Judiciary suggested and ordered printed.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative WARREN of Hallowell.

Cosponsored by Representatives: EVANGELOS of Friendship, MORALES of South Portland, PICKETT of Dixfield, RECKITT of South Portland, Senators: DESCHAMBAULT of York, MAXMIN of Lincoln.

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

Sec. 1. 15 MRSA §2151, first ¶, as amended by PL 1997, c. 354, §1, is further amended to read:

In cases arising in the District Court or the Superior Court in which a defendant has been convicted of a criminal offense and sentenced to a term of imprisonment of one year or more <u>or sentenced to a term of imprisonment under Title 17-A, section 1602, subsection 4</u>, the defendant may apply to the Supreme Judicial Court, sitting as the Law Court, for review of the sentence, except:

Sec. 2. 17-A MRSA §1602, sub-§4 is enacted to read:

- 4. Departure from the presumption of probation. In imposing a sentence for a crime listed in section 1605, subsection 3, except for a crime exempted in section 1605, subsection 2, the court shall determine if relevant aggravating sentencing factors justify a departure from the presumption of a sentencing alternative of probation and, if the court determines that a departure is justified, shall employ the sentencing process for a term of imprisonment as specified in subsection 1.
- **Sec. 3. 17-A MRSA §1605,** as enacted by PL 2019, c. 113, Pt. A, §2, is repealed and the following enacted in its place:

§1605. Suspension of all or part of the term of imprisonment imposed; presumptive probation

- 1. Suspension permitted. Unless the law that the individual is convicted of violating expressly provides that an authorized term of imprisonment may not be suspended, if the individual is eligible for probation as authorized by chapter 67, subchapter 1 or administrative release as authorized by chapter 67, subchapter 2, a sentencing court may suspend the authorized term of imprisonment in whole or in part and accompany the suspension with a period of probation, which may not exceed the maximum period of probation authorized for the crime pursuant to section 1804, or a period of administrative release, which may not exceed one year.
- **2. Probation presumed.** A sentencing alternative of probation is presumed to be the appropriate sentence for a Class C crime listed in subsection 3, unless:
 - A. The punishment for the crime has been enhanced to Class C because the person has one or more prior convictions;
 - B. The crime was committed with the use of a dangerous weapon; or
 - C. The person waives the presumption of probation.
- 34 3. Class C crimes. Probation is presumed to be the appropriate sentencing alternative
 35 for Class C crimes established in:
 - A. Title 1, section 202;
- 37 B. Title 8, sections 223, 280 and 1054;
- 38 C. Title 9-B, section 466;
- 39 <u>D. Title 10, sections 1101 and 1102;</u>
- 40 <u>E. Title 15, section 1091;</u>

1	F. Title 17-A, chapter 15; section 405; section 433; section 602; chapter 29; and
2	chapter 45;
3	G. Title 20-A, section 10802;
4	H. Title 21-A;
5	<u>I. Title 22, section 7251;</u>
6	J. Title 29-A, section 2106;
7	K. Title 30-A, section 5802;
8	L. Title 32, sections 11304 and 16508;
9	M. Title 34-B, section 3805;
10	N. Title 35-A, section 1507-A; and
11	O. Title 38, section 1319-T.
12 13	Sec. 4. 17-A MRSA §1812, sub-§4, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:
14 15 16 17 18 19 20 21	4. Failure to comply with requirement of probation. If the alleged violation does not constitute a crime and the court finds by a preponderance of the evidence that the person on probation has inexcusably failed to comply with a requirement imposed as a condition of probation, it may revoke probation impose a term of imprisonment of up to 60 days for the first violation considered by the court that does not constitute a crime and up to 120 days for the 2nd violation considered by the court that does not constitute a crime. The court may revoke probation for the 3rd violation considered by the court that does not constitute a crime.
22 23	Sec. 5. 17-A MRSA §1901, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:
24	§1901. Eligibility for deferred disposition
25 26 27	A person who has pleaded guilty to <u>unlawful possession of a scheduled drug under section 1107-A, subsection 1, paragraph A or a Class C, Class D or Class E crime and who consents to a deferred disposition in writing is eligible for a deferred disposition.</u>
28	SUMMARY
29 30 31 32 33	This bill provides for a presumption of probation as the sentence for certain Class C crimes and provides for penalties for first and subsequent violations of probation. The bill also makes deferred disposition available for a person who pleads guilty to unlawful possession of a scheduled drug under the Maine Revised Statutes, Title 17-A, section 1107-A, subsection 1, paragraph A.