

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.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

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.

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

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

4 In cases arising in the District Court or the Superior Court in which a defendant has
5 been convicted of a criminal offense and sentenced to a term of imprisonment of one year
6 or more or sentenced to a term of imprisonment under Title 17-A, section 1602, subsection
7 4, the defendant may apply to the Supreme Judicial Court, sitting as the Law Court, for
8 review of the sentence, except:

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

10 **4. Departure from the presumption of probation.** In imposing a sentence for a
11 crime listed in section 1605, subsection 3, except for a crime exempted in section 1605,
12 subsection 2, the court shall determine if relevant aggravating sentencing factors justify a
13 departure from the presumption of a sentencing alternative of probation and, if the court
14 determines that a departure is justified, shall employ the sentencing process for a term of
15 imprisonment as specified in subsection 1.

16 **Sec. 3. 17-A MRSA §1605**, as enacted by PL 2019, c. 113, Pt. A, §2, is repealed
17 and the following enacted in its place:

18 **§1605. Suspension of all or part of the term of imprisonment imposed; presumptive**
19 **probation**

20 **1. Suspension permitted.** Unless the law that the individual is convicted of violating
21 expressly provides that an authorized term of imprisonment may not be suspended, if the
22 individual is eligible for probation as authorized by chapter 67, subchapter 1 or
23 administrative release as authorized by chapter 67, subchapter 2, a sentencing court may
24 suspend the authorized term of imprisonment in whole or in part and accompany the
25 suspension with a period of probation, which may not exceed the maximum period of
26 probation authorized for the crime pursuant to section 1804, or a period of administrative
27 release, which may not exceed one year.

28 **2. Probation presumed.** A sentencing alternative of probation is presumed to be the
29 appropriate sentence for a Class C crime listed in subsection 3, unless:

30 A. The punishment for the crime has been enhanced to Class C because the person has
31 one or more prior convictions;

32 B. The crime was committed with the use of a dangerous weapon; or

33 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:

36 A. Title 1, section 202;

37 B. Title 8, sections 223, 280 and 1054;

38 C. Title 9-B, section 466;

39 D. Title 10, sections 1101 and 1102;

40 E. Title 15, section 1091;

