

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

**PRIVATE AND
SPECIAL LAWS**

OF THE

STATE OF MAINE

AS PASSED AT THE

SECOND REGULAR SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

CHAPTER 84

H.P. 359 - L.D. 479

**AN ACT to Create a Maine Sentencing
Guidelines Commission.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Sentencing Guidelines Commission established by the 111th Legislature completed much of the study assigned to it; and

Whereas, a few of the tasks of studying sentencing guidelines remain to be completed; and

Whereas, the members of the Maine Sentencing Guidelines Commission and other interested persons are eager to continue with the study; and

Whereas, the Legislature will benefit from the expeditious completion of the study; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Purpose and findings. The Legislature finds that appropriate sentencing of persons convicted of crimes, including the imposition of alternative sentences and probation, is of substantial importance to the people of this State in that appropriate sentencing reflects the proper balancing of punishment, deterrence, public protection and rehabilitation, the cornerstones of our penal system. The Legislature further finds that disparate sentences for similar crimes by similarly situated defendants continue to occur and undermine the principles of the penal system. The One Hundred and Eleventh Legislature created a commission to study and recommend sentencing guidelines to better enable the Maine judiciary to properly fulfill their responsibilities at the sentencing stage of the criminal justice system. It is

the Legislature's purpose to continue the study undertaken by that commission.

Sec. 2. Establishment of commission. There is created the Maine Sentencing Guidelines Commission which shall be comprised of 8 members, including the Commissioner of Corrections or his designee; 2 members of the joint standing committee of the Legislature having jurisdiction over judiciary to be appointed by the President of the Senate and the Speaker of the House of Representatives; a criminal defense attorney, a district attorney and 2 members of the public to be appointed by the Governor; and the Attorney General or his designee. In addition, a Supreme Court Justice, a Superior Court Justice and a District Court Judge, to be appointed by the Chief Justice of the Supreme Judicial Court, shall serve in an advisory capacity to the commission.

Members shall be appointed within 30 days of the effective date of this Act and shall serve for the duration of the 112th Legislature. Vacancies shall be filled for the portion of the term of the member being replaced.

Sec. 3. Study of sentencing practices; recommendation of sentencing guidelines.

1. Scope of investigation. The Maine Sentencing Guidelines Commission shall investigate sentencing practices in this State and shall make recommendations of sentencing guidelines in accordance with the following criteria:

A. The guidelines shall be for Class A, Class B and Class C crimes;

B. The circumstances under which imprisonment of an offender is proper;

C. Appropriate advisory sentencing guidelines for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15% in the base sentence;

D. The commission shall address appropriate sanctions for offenders for whom imprisonment is not proper, including, but not limited to, the following noninstitutional sanctions: Payment of fines; day fines; restitution; community work orders; work-release programs in local facilities;

community-based residential and nonresidential programs; incarceration in a local correctional facility; and probation and the conditions thereof;

E. The commission shall address the appropriateness of statutory or constitutional changes to facilitate expanded judicial authority for post-conviction resentencing or modification of sentence;

F. The commission shall address the appropriateness of expanded judicial discretion to sentence to intermediate correctional facilities;

G. The commission shall address the need for a system to monitor the application of the advisory sentencing guidelines and the most effective system to accomplish that function; and

H. Such other matters and considerations as the Maine Sentencing Guidelines Commission shall deem appropriate in providing to the Legislature a full and accurate picture of the subject matter of sentencing and sentencing alternatives.

2. Sentencing guidelines. In establishing the sentencing guidelines, the commission shall take into substantial consideration current sentencing, release practices and correctional resources, including, but not limited to, the capacities of local and state correctional facilities.

The commission may solicit reports, data and other assistance from the Criminal Law Revision Commission. The commission may also seek the assistance of any other persons or organizations.

The commission shall meet as often as necessary to fulfill its mandate and shall provide for publicized public hearings to garner maximum public participation in its decision making.

Sec. 4. Compensation. Each member of the commission not an employee of the State shall be allowed the sum of \$50 a day plus his necessary traveling expenses for actual attendance at commission meetings or proceedings.

Sec. 5. Staff and facilities. The commission may employ a research director who shall perform the duties which the commission directs, including the hiring of any clerical help and other employees the

commission may require. The research director and other staff shall be in the unclassified service of the State and their salaries shall be established by the commission.

The Department of Attorney General shall provide adequate office space and administrative services for the commission for which the department shall be reimbursed. The commission may also utilize services, equipment, personnel, information and resources of other state agencies, with their consent; and may accept voluntary and uncompensated services, contracts with individuals, public and private agencies, and request information, reports and data from any agency in the State or any of its political subdivisions, to the extent authorized by law.

Sec. 6. Additional funds. When any person, corporation, the Federal Government or any other entity offers funds to the Maine Sentencing Guidelines Commission to carry out its purposes and duties, the commission may accept the offer by majority vote and, upon acceptance, the chairman shall receive the funds subject to the terms of the offer, but no money may be accepted or received as a loan nor may any indebtedness be incurred, except in the manner and under the limitations otherwise provided by law.

Sec. 7. Report on findings and recommendations. The Maine Sentencing Guidelines Commission shall make a final report of its findings and recommendations with respect to the criteria indicated in section 3 on or before January 5, 1986, to the Second Regular Session of the 112th Legislature. The report shall also include, in proper draft form, any suggested implementing legislation or amendment to the Constitution of Maine proposed to implement the commission recommendations.

Sec. 8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1985-86

MAINE SENTENCING
GUIDELINES COMMISSION

Personal Services	\$11,200
All Other	<u>3,800</u>
Total	\$15,000

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective January 10, 1986.

CHAPTER 85

H.P. 1176 - L.D. 1671

AN ACT to Clarify the Referendum Provision
to Revise and Modernize the Charter of
the York Sewer District.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the referendum provision of P&SL 1985, c. 57 needs to be clarified; and

Whereas, it is vitally important to clarify the referendum provision before the 1986 annual town meeting in the Town of York; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

P&SL 1985, c. 57, §2, first sentence, is amended to read:

Sec. 2. Referendum; effective date. This Act shall be submitted to the legal voters of the York Sewer District at the next ~~townwide election~~ annual town meeting in the Town of York after the effective date of this Act.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective February 7, 1986.
