

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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

J.S. McCarthy Company
Augusta, Maine
2000

reconstruction, purchase or acquisition of facilities without a majority vote of approval in each House of the Legislature.

See title page for effective date.

CHAPTER 788

S.P. 111 - L.D. 308

**An Act to Implement the
Recommendations of the 118th
Legislative Joint Select Committee to
Implement a Program for the
Control, Care and Treatment of
Sexually Violent Predators**

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

Sec. 1. 15 MRSA §1004, as amended by PL 1997, c. 317, Pt. A, §1, is further amended to read:

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229 or post-conviction review proceedings under sections 2121 to 2132 or, probation revocation proceedings under Title 17-A, sections 1205 to 1207 or supervised release revocation proceedings under Title 17-A, section 1233, except to the extent and under the conditions stated in those sections. This chapter applies to the setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under the Maine Rules of Criminal Procedure, Rule 42 or the Maine Rules of Civil Procedure, Rule 66 and to the setting of bail relative to a material witness only as specified in sections 1103 and 1104, respectively.

Sec. 2. 17-A MRSA §1202, sub-§1-A, as enacted by PL 1997, c. 395, Pt. M, §1, is repealed and the following enacted in its place:

1-A. Notwithstanding subsection 1:

A. The period of probation for a person convicted under chapter 11 or section 854, excluding subsection 1, paragraph A, subparagraph (1), may be extended by up to 4 years for a Class A crime, by up to 2 years for a Class B or Class C crime and by up to one year for a Class D or Class E crime if the court finds that the additional time is needed to provide sex-offender

treatment to the person or to protect the public from the person because, based on one or more of the factors in section 257, the court determines that the person is a high-risk sex offender; and

B. The period of probation for a person sentenced as a dangerous sexual offender pursuant to section 1252, subsection 4-B is any term of years.

Sec. 3. 17-A MRSA §1203, sub-§1, as amended by PL 1999, c. 24, §3, is repealed.

Sec. 4. 17-A MRSA §1203, sub-§1-A is enacted to read:

1-A. The court may sentence a person to a term of imprisonment, not to exceed the maximum term authorized for the crime, an initial portion of which must be served and the remainder of which must be suspended. The period of probation commences on the date the person is released from the initial unsuspended portion of the term of imprisonment, unless the court orders it to commence on an earlier date.

A. If the period of probation commences upon release of the person from the initial unsuspended portion of the term of imprisonment, the court may revoke probation for any criminal conduct committed during that initial period of imprisonment.

B. The court may revoke probation if, during the initial unsuspended portion of the term of imprisonment, a person sentenced as a dangerous sexual offender, pursuant to section 1252, subsection 4-B, refuses to actively participate in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections.

C. As to both the suspended and unsuspended portions of the sentence, the place of imprisonment must be as follows.

(1) For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

(2) For a Class A, Class B or Class C crime the court must:

(a) Specify a county jail as the place of imprisonment for any portion of the sentence that is 9 months or less; and

(b) Commit the person to the Department of Corrections for any por-

tion of the sentence that is more than 9 months.

Sec. 5. 17-A MRSA §1203, sub-§2-A, as enacted by PL 1983, c. 673, §2, is amended to read:

2-A. In any prosecution for a crime committed prior to September 23, 1983, the court may, with the consent of the defendant, impose sentence under subsection ~~†~~ 1-A.

Sec. 6. 17-A MRSA §1206, sub-§9, as enacted by PL 1989, c. 693, §4, is amended to read:

9. Whenever a previously suspended sentence of imprisonment for a Class A, Class B or Class C crime is vacated, in whole or in part, as the result of a probation revocation, the court must respecify the place of imprisonment for both the portion required to be served and any remaining suspended portion, if necessary, to carry out the intent of section 1203, subsection ~~†~~ 1-A.

Sec. 7. 17-A MRSA c. 50 is enacted to read:

CHAPTER 50

SUPERVISED RELEASE FOR SEX OFFENDERS

§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.

2. The authorized period of supervised release is:

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

B. For a person not sentenced under section 1252, subsection 4-B, 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.

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 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 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.

§1232. Conditions of supervised release

If the court imposes a sentence that includes a period of supervised release, it shall set conditions of supervised release. The conditions of release that apply to probation under section 1204 apply to conditions of supervised release. The court may also set conditions of supervised release that it determines

to be reasonable and appropriate to manage the person's behavior.

§1233. Revocation procedures

The procedures, rights and responsibilities that apply to probation revocation under sections 1205 to 1208, including bail under section 1205, subsection 8 and appellate review of revocation under section 1207, apply to revocation of supervised release.

Sec. 8. 17-A MRSA §1252, sub-§4-B is enacted to read:

4-B. If the State pleads and proves that the defendant is a dangerous sexual offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "dangerous sexual offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of the United States or any other state.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in other jurisdictions is satisfied if the sentencing court at the time of sentence imposition makes such a finding.

Sec. 9. 17-A MRSA §1256, sub-§8, as enacted by PL 1989, c. 739, §2, is amended to read:

8. No court may impose a sentence of imprisonment, not wholly suspended, to be served consecutively to any split sentence, or to any sentence including supervised release under chapter 50, previously imposed or imposed on the same date, if the net result, even with the options made available by subsections 5 and 9 of this section and section 1202,

subsection 4, would be to have the person released from physical confinement to be on probation or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence.

Sec. 10. 17-A MRSA §1263, sub-§1, ¶C, as enacted by PL 1985, c. 821, §15, is amended to read:

C. The sentence imposed conforms to the requirements of section 1262 and would, in any case, have been a split sentence under section 1203, subsection 4 1-A, with commitment under both portions of the sentence to the Department of Corrections;

See title page for effective date.

CHAPTER 789

S.P. 298 - L.D. 870

An Act to Improve School Safety and Learning Environments

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

Sec. 1. 13 MRSA §3167-A is enacted to read:

§3167-A. Expenditure of ministerial funds

A municipality may expend funds held in its ministerial trust for school construction or renovation if the expenditure is approved by the voters of the municipality at an election.

Sec. 2. PL 1999, c. 731, Pt. YY, §6 is repealed and the following enacted in its place:

Sec. YY-6. Creation of plan. The State Board of Education and the Department of Education shall conduct a study and create a plan to address the needs for improved and new school facilities for those school facility projects beyond Project #22 on the major capital improvement priority list. This plan, to be presented to the 120th Legislature no later than January 15, 2001, must include a review of the rules related to the protected status of projects in the current 2-year rating cycle. The State Board of Education and the Department of Education shall also conduct a review of the debt service limits, as well as a "hold harmless" provision related to actions taken by local school administrative units to remediate existing Priority I health, safety or compliance issues as defined by Department of Education rules.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.