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STATE OF MAINE
114TH LEGISLATURE
SECOND REGULAR SESSION

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*Addendum to the
Final Report of the*

**JOINT SELECT COMMITTEE
ON CORRECTIONS**

March 1990

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INTRODUCTION

In November, 1989, the citizens of Maine rejected a key element in the corrections plan put forth by the Joint Select Committee on Corrections, the Department of Corrections and the Legislature when they defeated a proposed \$35 million bond issue which would have added 200 maximum-security beds to the 100 already authorized at South Warren. Having had its life extended into the second session of the 114th Legislature, the Joint Select Committee on Corrections was able to respond immediately by reviewing its report ("Final Report of the Joint Select Committee on Corrections, December, 1988") to determine what adjustments would need to be made to its recommendations in order to respond to citizens without losing sight of the very real short- and long-term needs of Maine's correctional system.

This update to the Committee's "Final Report" reviews the Committee's most-recent examination of corrections policy and offers recommendations to augment the Committee's "Final Report" in light of the developments of the past year. Although many of the recommendations could be developed independently of one another, all are required if any significant strain is to be lifted from a system which, by all accounts, has been pushed to its limits.

In January, 1990, the total rated capacity of Maine's existing correctional facilities stood at 1319 beds.* With 1677 inmates in the system, the overall census was 127% of rated capacity. Several previously-authorized expansion projects are in various stages of development; when they are completed, total rated capacity will rise to 1431, but as the projects are progressing, inmate population will be increasing at an estimated rate of 6.5% per year. If all other factors are held constant, the result will be an estimated deficit of over 700 beds by 1995, as follows:

1995 Rated Capacity:	1431
1995 Inmate Projections	- <u>2148</u>
1995 Capacity Deficit	-717

*With the exception of the Maine State Prison, rated capacity is calculated by considering American Correctional Association standards for square feet of cell space, access to day-room space, and out-of-cell time per prisoner. Because Maine State Prison cells do not meet ACA standards, capacity there is approximated by assigning a capacity of one to each cell. The capacity figures cited in this report include segregation beds; the Department does not count segregation beds as part of its capacity figures.

The central question considered by the Committee was:
"What strategy or combination of strategies should Maine pursue to close this projected deficit, given the wishes of citizens (as expressed in the defeat of the referendum) and the present fiscal constraints facing the State?" The Committee recommends a four-pronged strategy, comprised of:

- I. Sentencing reform;
- II. Development of a range of sanctions;
- III. Program development to decrease recidivism and improve efficient allocation of correctional resources; and
- IV. Increase in the rated capacity and quality of the institutions.

PART I. SENTENCING REFORM

While, on the one hand, Maine clearly needs additional prison capacity, on the other hand, it cannot afford to "build itself out" of its overcrowding problem. Such a proposition would be prohibitively expensive and would offer little assurance that overcrowding would not occur in the future, because the correctional system has little control over the number of people which it must hold.

Although sentencing and correctional resources are clearly connected, the relationship appears to be one of necessity over which neither partner has much control. The Committee recognizes that, without a more formal link between sentencing practices and correctional resources, the systems will continue to react to one another in a haphazard, "catch-up" manner.

At issue is not whether Maine needs tougher or more lenient sentences. Regardless of the direction Maine chooses to take on sentences, policy makers need the capability to assess the impact of sentencing practices on the corrections system. Judges must have confidence that the sentences they impose will be carried through, and corrections officials need the resources to do so. Accordingly, the Committee offers the following recommendations:

Rec. I-A. A correctional system impact statement should be attached to any legislation which would affect the correctional system. This would ensure that citizens and policy makers understand fully the affect and cost of increasing prison terms or mandating minimum sentences for certain offenses. The Committee has submitted legislation to require correctional system impact statements. (See section 1 of Appendix A.)

Rec. I-B. A Commission on Adult Sentencing should be established to investigate ways in which sentencing and correctional resources can be linked. The Commission would be charged with recommending ways in which sentencing practices and correctional resources can remain balanced in the long run. Specific approaches to be examined include reinstitution of parole or an alternative to parole, elimination of mandatory minimum sentences, adjustment of Class A crime sanctions, and implementation of a structured sentencing system. The Committee has submitted legislation to create a 2-year commission. (See Appendix B.)

Rec. I-C. The Department of Corrections should establish a pre-sentence investigation pilot unit within one of its Probation and Parole districts. The unit would prepare pre-sentence investigation reports for all defendants convicted of Class A, B and C crimes within the district and recommend community sentencing options when appropriate. The goal of the

pilot is to decrease unnecessary incarceration and over-incarceration by tailoring sanctions to meet the security and rehabilitation needs of individuals. The Committee has submitted enabling legislation, including an appropriation provides contract funds to purchase the recommended sentencing options. (See section 17 of Appendix A.)

Rec. I-D. Pre-sentence services for indigent offenders should be expanded throughout the State. While the pilot program recommended in I-C would affect only one Probation and Parole district, private agencies have been successful in providing pre-sentence services in various parts of the State. The Committee has submitted an appropriation request to provide such services to indigent offenders through contracts with private agencies. (See section 20 of Appendix A.)

Rec. I-E. Pre-trial service programs should be expanded to all parts of the State. Presently, pre-trial service programs exist in Cumberland and Androscoggin counties. Such programs secure the release of low-risk arrestees and arrange for appropriate pre-trial services, depending on individual needs. Such programs reduce unnecessary incarceration in county jails and encourage rehabilitation and development of community support systems for offenders. The Committee strongly urges counties to fund such programs with community corrections reimbursement funds.

Rec. I-F. Juvenile sentencing issues should be included in the Maine Criminal Justice Sentencing Institute. If the future lies with our children, rehabilitation of juvenile offenders holds the most promise for reducing tomorrow's prison populations. Therefore, ongoing discussion of effective early intervention is critical; the Sentencing Institute has provided a forum for such discussion in the past, and the Committee has submitted legislation which would institutionalize the commitment to having such discussions in the future. (See section 2 of Appendix A.)

PART II. DEVELOPMENT OF A RANGE OF SANCTIONS

The limited range of sanctions available to judges in Maine has been the topic of discussion in the Committee and elsewhere for several years. Having a range of sanctions which spans the area between no sanction and incarceration addresses issues of efficiency and equity.

In terms of efficiency, offenders who are appropriately sentenced do not waste scarce correctional resources. If an offender is imprisoned only because no intermediate punishment exists, the offender uses resources which could be applied to a more dangerous person.

In terms of equity, a system with a broad range of available sanctions results in a better offender-punishment fit. People are less likely to be over- or under-punished for their crimes.

While Maine has broadened its range of sanctions in recent years, further development in this area promises to reduce the need for increased prison capacity. The Committee offers several recommendations, as follows:

1. Enhancement of Probation Services

Rec. II-A. Intensive supervision probation (ISP) should be expanded for adults, and attempted on a pilot basis for juveniles. Maine's initial efforts with ISP have been successful, and the Committee supports its expanded use. The Committee recommends a pilot juvenile program as soon as possible. ISP for adults was expanded by LD 2098 during the Second Session of the 115th Legislature. ISP may now be recommended for probation violators and others who were previously ineligible. In the short-run, this should result in full utilization of existing ISP resources; in the long-run, more resources will be needed for the program.

Rec. II-B. Reporting centers (also known as day centers) should be developed immediately. A reporting center is an office-like place staffed by probation and parole officers. Probationers report to the center in the morning, receive their assignments, report again in the evening and return to their homes. Such a special condition of probation is far more restrictive and structured than regular probation but less restrictive than incarceration. The Committee has submitted legislation to provide funding for 2 reporting centers in FY 90-91. Such centers could be established quickly, providing prompt relief to prison crowding as probationers are diverted from prison. (See section 22 of Appendix A.)

Rec. II-C. Officer-to-probationer ratios should be decreased for both juveniles and adults. Current probation ratios are 1:137 for adults and 1:60 for juveniles. Such ratios inevitably result in less effective services; in the long-run, faith in the probation system is undermined as probation violations increase. Because significant reductions in caseloads will be expensive, the Committee recommends reducing them over 5 years. A ratio of 1:70 is recommended for adults, and legislation has been submitted mandating a maximum juvenile ratio of 1:35 by 1995. (See section 20 of Appendix A.) The Committee has also submitted legislation to fund 3 additional probation and parole officers in FY 90-91. (See section 22 of Appendix A.)

2. Development of Community Diversion and Prevention Programs for Juveniles

Rec. II-D. Community diversion and prevention programs for juveniles should be developed as soon as possible. The Committee conducted a comprehensive review of the Juvenile Corrections Planning Commission's report and supports implementation of the recommendations contained therein. In LD 723, the Committee created a hold-back provision in the community corrections laws which mandates the Department to hold back 30% of reimbursement funds paid to counties until the counties demonstrate that the funds will be used to develop community programs for juveniles and adults. Additionally, the Committee has submitted legislation to fund community-based juvenile diversion programs and to expand a juvenile community projects program to other parts of the State. (See section 22 of Appendix A.) The Committee has also submitted legislation which requires counties to develop temporary holding capacity for juveniles by 1992. (See section 14 of Appendix A.) Legislation has also been submitted which would allow the Department to keep juvenile boarding fees to develop community juvenile programs. (See section 18 of Appendix A.)

3. Establishment of Restitution Centers

Rec. II-E. The Department of Corrections should establish 2 restitution centers as soon as possible, and a third center when resources permit. Restitution centers (also known as diversion centers) would provide a structured residential sanction in the community. Residents, assigned to a center as a special condition of probation, would hold down jobs, pay restitution to their victims, engage in community service and contribute to their room and board costs. The Committee recommended passage of LD 2273, which would enable the department to establish as many centers as they need. Funding of capital costs for 2 centers has been included in the Committee's proposed bond issue for November, 1990.

4. Increased Use of County Jails

Rec. II-F. Sentences of 1 year or less should be served in county jails. Increased use of county jails diverts prisoners from the State system and allows prisoners to serve their time closer to their communities and support systems. In order to allow time for planned county facilities to be completed, the Committee has submitted legislation to mandate that sentences of 1 year or less be served in county jails as of January, 1995. (See sections 11 and 12 of Appendix A.)

PART III. PROGRAM DEVELOPMENT

Increasing the availability of programs for offenders in prisons and in community settings has short- and long-term implications for the correctional system. Programs can effect the system in at least two ways: they can decrease the recidivism rate, resulting in lower future prison populations, and they can increase the operational efficiency of the correctional system, resulting in better allocation of resources. In addition to these practical concerns, certain basic entitlements, such as access to law materials and medical treatment, must be provided regardless of the effect they have on the system.

Programs which can decrease recidivism include substance abuse and sex-offender treatment programs, employment and employment training programs, and transitional services, such as "halfway" houses.

Programs which can increase the efficiency of the system include medical and geriatrics services and mental health services. In particular, the Department's reliance on community hospitals and nursing homes for inmates needing those services has resulted in large expenditures necessary to purchase the services and to pay overtime to correctional officers who must transport and guard the inmates who are receiving the services.

The Committee has offered several recommendations regarding programs in past reports. The following express the Committee's ongoing concern in this area:

Rec. III-A. The Department of Corrections should implement its Master Plan recommendations regarding sex-offender treatment as soon as possible. The need for such services has increased dramatically over the past several years, with the Department estimating that about 30% (over 500) of current inmates are sex offenders. The Committee is particularly concerned that, because of difficulties the Department has had securing the services of a professional therapist, the Maine Correctional Center is currently without any sex-offender treatment services. Additionally, the Committee endorses the Department's plan to institute intensive treatment programs at the Maine Correctional Center and at the Downeast Correctional Center. Furthermore, offenders leaving the institutions must be referred to community treatment services to ensure continuity.

Rec. III-B. The Department of Corrections should begin immediate implementation of its Master Plan recommendations regarding substance abuse treatment programs. Specifically needed are increased substance abuse services for the general inmate population and mechanisms by which treatment can be continued in community settings. Although national experts have not reached consensus on whether segregated "in-patient" treatment units should be established, the Department should continue to give serious consideration to that option. The

Committee has submitted legislation requiring the Department to begin implementing the Master Plan recommendations and to report to the Legislature regarding its progress on January 15, 1991. (See section 22 of Appendix A.)

Rec. III-C. Pre- and post-release programs should be expanded as much as possible. The transitional period between incarceration and complete freedom is critical to an inmate's long-term success in the community. The Department has authority to expand transitional support services but needs additional resources to do so. The Committee has submitted legislation which includes: two new pre-release centers, a new minimum-security facility, and reductions in probation caseloads.

Rec. III-D. The Department of Corrections should determine the feasibility of a new community employment program for longer-term inmates and make recommendations to the Committee. Generally, work-release programs are offered to inmates who are approaching the end of their terms. While work-release should continue to be offered and be expanded as a transitional program, the Department should consider community employment options for inmates who do not pose imminent security threats but who have lengthy sentences to serve. Such a program could include working with counties under new jail industries authority provided by LD 2024.

Rec. III-E. The Department of Corrections should determine the feasibility of developing "halfway" houses in partnership with private and public agencies. The Department's Master Plan calls for the development of 4 new halfway houses, with at least one to be operated by the Department. While the Committee endorses the expansion of halfway houses, it believes the Department should closely examine the advantages and disadvantages of developing new houses with private agencies and other entities, such as the Maine State Housing Authority, before proceeding with state-operated models.

Rec. III-F. The Department of Corrections should determine the feasibility of establishing a forensic unit within the Department. Most inmates with mental illness can be treated successfully within the general prison population. However, a growing number of prisoners with severe mental illness is placing an increasing strain on resources. The Department estimates that, by 1995, a 32-bed forensic unit would be fully utilized. This would relieve pressure on segregation units, where inmates with mental illness are often placed for their own safety or the safety of other inmates. The Committee has submitted legislation which would allow the Department to conduct a feasibility study regarding forensic and other special services.

Rec. III-G. The Department of Corrections should study the feasibility of establishing a medical/nursing care/geriatrics unit within the Department. The department reports that, at any one time, it has 4 to 7 inmates in nursing homes. The department pays for the nursing care and security needs of each person. The number of elderly inmates will increase as the general population ages and as inmates serve out longer sentences. Additionally, inmates requiring hospital care must be transported to and guarded at community hospitals. Given present staffing levels, this generally results in overtime wages being paid to several correctional officers. The department has estimated that, by 1995, it could fill up to 50 medical/nursing/geriatrics beds. The Committee has submitted legislation which would allow the Department to conduct a feasibility study regarding such a unit.

Rec. III-H. Advocacy services should be expanded throughout the correctional system. Presently, 3 full-time equivalent positions, including the Chief Advocate, serve the entire system. Advocates are assigned and budgeted to specific institutions, making coverage difficult. The Committee has submitted legislation providing 2 additional advocates, 1 clerk typist, and several changes to the statutes to strengthen the Office of Advocacy and to identify it as an entity within the Department, including a reporting requirement which will ensure ongoing legislative review. (See sections 15, 16, 17 and 23 of Appendix A.)

Rec. III-I. The Department of Corrections should implement its Master Plan recommendations regarding its management information system (MIS), and should ensure that its system will provide data which is needed to assess the efficacy of various treatment interventions and to determine which resources the system needs, based on the individuals who are in it. Policy makers must have data based on the individuals in the correctional system if they are to make informed decisions regarding the allocation of resources. Presently, many needs are expressed anecdotally or are analyzed through painstaking hand retrieval of data. Few, if any, of the treatment programs are regularly reviewed for effectiveness because data is lacking. All of the programs referred to above must ultimately stand the test of effectiveness.

PART IV. INCREASING THE CAPACITY AND QUALITY OF THE INSTITUTIONS

Part I opened with the claim that Maine "cannot afford to 'build itself out' of its overcrowding problem." Accordingly, Parts I, II and III outlined various alternatives to new prisons.

The Committee emphasizes that the specified alternatives are needed in addition to construction in order to relieve a desperate situation. If all the recommended alternatives are adopted, construction will still be necessary.

The Committee unanimously agrees that more beds are needed and that, specifically, a shortage of community- and minimum-security beds exists.

The Committee is divided on the issue of maximum v. medium beds, with all but one member recommending additional maximum-security beds and the remaining member recommending medium-security beds. At issue is the designation of the Maine State Prison, which has historically housed the State's maximum-security inmates. The Department has argued, and the majority of the Committee agrees, that the Maine State Prison is no longer appropriate for that use. Among the reasons cited by the Department are:

- The prison is a one-wall facility; current standards require a 2-fence perimeter;
- The prison uses dormitory-style housing for 92 inmates; such housing is inappropriate for maximum-security;
- The prison has manual locks; electronic locks are needed for the safety of staff; and
- The prison is riddled with blind spots; current designs require clear sight lines which enable proper supervision of all prisoners.

Table 1 presents the majority's projected facility needs by type of bed, with Maine State Prison designated as a medium-security facility. Table 2 presents the minority's projected facility needs by type of bed, with Maine State Prison designated as a maximum-security facility. Table 3 presents the effect of the majority's package of new programs upon the majority's projected needs. Table 4 presents the effect of the minority's package of new programs upon the minority's projected needs. Recommendations follow the tables.

**Table 1. FACILITY CAPACITY WITH MAINE STATE PRISON DESIGNATED MED,
COMPARED WITH 1995 INMATE PROJECTIONS**

	HMx	Mx	Md	Mn	Com	Recv	Seg	Total
1. Total Capacity*	25	75	636	459	115	36	85	1431
2. 1995 Inmate Projections +5%	23	414	680	692	234	105	0	2148
Difference (Row 1 - Row 2)	2	-339	-44	-233	-119	-69	85	-717

**Table 2. FACILITY CAPACITY, WITH MAINE STATE PRISON DESIGNATED MAX,
COMPARED WITH 1995 INMATE PROJECTIONS**

	HMx	Mx	Md	Mn	Com	Recv	Seg	Total
1. Total Capacity*	25	430	281	459	115	36	85	1431
2. 1995 Inmate Projections +5%	23	414	680	692	234	105	0	2148
Difference (Row 1 - Row 2)	2	16	-399	-233	-119	-69	85	-717

* includes all previously authorized projects, which are at various stages of completion.

Table 3. MAJORITY PROPOSAL: 1995 FACILITY BED SURPLUS OR DEFICIT (MSP MED) AND IMPACT OF PROPOSED PACKAGE

	HMx	Mx	Md	Mn	Com	Recv	Seg	Total
1995 Surplus or Deficit (from Table 1)	2	-399	-44	-233	-119	-69	85	-717
1. Reporting Center/ Expanded ISP				77	23			100
2. 100 Restitution			20	33	12			65*
3. 100 S. Warren		75				25		100
4. 50 York/Cumberland					50			50
5. 50 DCF				50				50
6. 30 Hallowell					30			30
Remaining Surplus or Deficit	2	-324	-24	-73	-4	-44	85	-322

* DOC estimates that the other 35 beds will represent diversions from county jails.

Table 4. MINORITY PROPOSAL: 1995 FACILITY BED SURPLUS OR DEFICIT (MSP MAX) AND IMPACT OF PROPOSAL PACKAGE

	HMx	Mx	Md	Mn	Com	Recv	Seg	Total
1995 Surplus or Deficit (from Table 2)	2	16	-399	-233	-119	-69	85	-717
1. Reporting Center/ Expanded ISP				77	23			100
2. 100 Restitution			20	33	12			65*
3. 224 I-95			224					224
4. 50 York/Cumberland					50			50
54. 50 DCF				50				50
6. 30 Hallowell					30			30
Remaining Surplus or Deficit	2	16	-155	-73	-4	-69	85	-198

* DOC estimates that the other 35 beds will represent diversions from county jails.

1. Immediate Construction and Repairs

Rec. IV-A. (Majority) 100 maximum-security beds should be added to the 100 already authorized in South Warren. Cost: \$14,250,000.

Rec. IV-A. (Minority) 224 minimum-security beds should be built on the I-95 corridor. Cost: \$14,250,000.

(All other recommendations are unanimous.)

Rec. IV-B. 50 pre-release beds should be built in York or Cumberland County. Cost: \$1,400,000.

Rec. IV-C. 2 diversion/restitution centers should be built; 1 in Androscoggin County and 1 in Penobscot County. Cost: \$2,800,000.

Rec. IV-D. 50 minimum-security beds should be built and the sewerage treatment facility must be repaired at the Downeast Correctional Center. Cost: \$1,500,000.

Rec. IV-E. A women's pre-release center should be established in a State-owned building in Hallowell. Cost: \$50,000.

Rec. IV-F. In addition to the feasibility study recommended in Part III, a comprehensive study should be undertaken to determine possible future uses for the Maine State Prison.

2. Staffing

Rec. IV-G. As soon as possible, staffing should be increased at all institutions. At present staffing levels, correctional officers take substantial risks every day. In order to meet basic safety standards, the institutions rely on overtime which results in cost over-runs. Present ratios do not take into account training and other shift-leave factors.

APPENDIX A
"OMNIBUS" BILL

COMMITTEE: CORR
LA: PJS 03/27/90
LR (item)#
Doc. #933LHS
Sponsor:

Reported by the Joint Select Committee on Corrections pursuant
to H.P. 1483.

SECOND REGULAR SESSION

ONE HUNDRED AND FOURTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

AN ACT Relating to Correctional Policy.

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

Sec. 1. 3 MRSA §163-A, sub-§12-A is enacted to read:

12-A. Statement of Correctional System Impact. To prepare statements pertaining to the impact which proposed legislation has upon correctional system resources, including the cost which the correctional system would bear. The correctional system includes correctional facilities and services operated or funded by the State or by any county government. The statements must be furnished to the appropriate committee for the information of its members and for inclusion in bills which receive an ought to pass report when reported by the committee. A statement is not required for any bill which has no impact upon the correctional system.

Sec. 2. 4 MRSA §454 is amended to read as follows:

§454. Maine Criminal Justice Sentencing Institute

There is established a Maine Criminal Justice Sentencing

Institute under the administrative supervision of the State Court Administrator to provide continuing forum for the regular discussion of the most appropriate methods of sentencing convicted offenders and adjudicated juveniles by judges in the criminal justice system, prosecutors, law enforcement and correctional personnel, representatives of advisory and advocacy groups, and such representatives of the defense bar as the chairman of the Judicial Council may invite. All Supreme Judicial Court, Superior Court, District Court and Administrative Court Judges, all District Attorneys and attorneys within the Criminal Division of the Office of the Attorney General, and such other criminal justice personnel as the Judicial Council may authorize shall be members of the institute.

The institute shall meet not less than once every 3 years, at the call of the Judicial Council, for a 2-day period to discuss recommendations for changes in the sentencing authority and policies of the state's criminal and juvenile courts, in response to current law enforcement problems and the available alternatives for criminal and juvenile rehabilitation within the state's correctional system. Inasmuch as possible the deliberations of the institute shall be open to the general public.

Members of the institute shall receive no compensation for their services, but shall be allowed, out of any appropriation or other fund made available for the purpose, such expenses for clerical and other services, travel and incidentals as the Judicial Council may authorize.

Sec. 3. 15 MRSA §3003, sub-§26 is amended to read:

26. Temporary Holding Resource. "Temporary Holding Resource" means an area not in a jail, consisting of not more than 2 rooms, with a capacity to serve no more than 4 juveniles, which may be used to provide secure or nonsecure ~~shelter~~ supervision for a period not to exceed ~~72-hours~~ 48 hours excluding Saturdays, Sundays and legal holidays. The level of security provided is dependent on the intensity of personal supervision employed rather than on the physical characteristics of the facility.

Sec. 4. 15 MRSA §3006 is enacted to read as follows:

§ 3006. Review of juvenile code

The Department of Corrections shall review the provisions of this Part which relate to detention, custody and supervision of juveniles and submit reports and recommended legislation to the joint committee having jurisdiction over juvenile

corrections matters and to the Executive Director of the
Legislative Council on January 15, 1992 and on January 15, 1994.

Sec. 5. 15 MRSA §3203-A, sub-§1, ¶B-1 is amended to read as follows:

B-1. When, in the judgement of a law enforcement officer, immediate secure detention is required to prevent a juvenile ~~who satisfies the requirements of subsection 4, paragraph D~~ from imminently inflicting bodily harm to others or to himself, the officer may refer the juvenile for temporary, emergency detention ~~to a~~ in a jail or other secure facility intended for the use or primarily used for the detention of adults approved pursuant to subsection 7, paragraph A or a facility approved pursuant to subsection 7, paragraph B, prior to notifying a juvenile caseworker or the Department of the Attorney General, as applicable. Such a facility may detain the juvenile ~~for up to~~ 2 hours on an emergency basis provided the law enforcement officer from the facility immediately notifies the juvenile caseworker or the Department of the Attorney General and requests authorization to detain the juvenile beyond the term of the temporary, emergency detention pursuant to paragraph B. The juvenile caseworker or the Department of the Attorney General may, if continued emergency detention is required to prevent the juvenile from imminently inflicting bodily harm to others or to self, authorize temporary emergency detention in that facility for an additional 4 hours. Following any temporary emergency detention, the juvenile caseworker or the Department of the Attorney General shall order the conditional or unconditional release of the juvenile or shall effect a detention placement ~~within 2 hours following the temporary, emergency detention.~~ After December 31, 1991, any detention beyond 6 hours must be in a placement other than a facility intended for the use or primarily used for the detention of adults and must be authorized by a juvenile caseworker or the Department of the Attorney General. It shall be the responsibility of the law enforcement officer to remain at the facility until the juvenile caseworker or the Department of the Attorney General has released the juvenile or has authorized detention.

Sec. 6. 15 MRSA §3203-A, sub-§2, ¶A is amended to read as follows:

A. When a juvenile is arrested, the law enforcement officer or the juvenile caseworker shall notify the legal custodian of the juvenile without unnecessary delay and inform the legal custodian of the juvenile's whereabouts, the name and telephone number of the juvenile caseworker who has been contacted and, if a juvenile has been placed in a secure detention facility, that a detention hearing will be held within 48 hours following this placement, excluding Saturday,

Sunday and legal holidays. After December 31, 1991, if the juvenile is held under section 3203-A, subsection 7, paragraph B-1, the law enforcement officer or the juvenile caseworker will notify the legal custodian that a detention hearing will be held within 24 hours following this placement excluding Saturday, Sunday, and legal holidays.

Sec. 7. 15 MRSA §3203-A, sub-§7, ¶A is amended to read as follows:

A. A juvenile may be detained in a jail or other secure detention facility intended for use or primarily used for the detention of adults only when the serving facility:

(1). Contains an area where juveniles are under direct staff observation at all times, in a separate section for juveniles which complies with the mandatory sight and sound separation standards established by the Department of Corrections pursuant to Title 34-A section 1208;

(2). Provides for no regular contact between the juveniles with adult detainees or inmates; and

(3). Has an adequate staff to provide direct observation to monitor and supervise the juvenile's activities at all times during emergency detention.

Juveniles detained in adult serving facilities shall be placed only in the separate juvenile sections which comply with mandatory separation standards established by the Department of Corrections pursuant to Title 34-A, section 1208, unless the court orders that the person be detained with adults for any period of detention occurring after the detainee has attained the age of 18 years.

Sec. 8. 15 MRSA §3203-A, sub-§7, ¶B-1 is enacted to read as follows:

B-1. After December 31, 1991, if the juvenile caseworker determines there is no acceptable alternative, a juvenile may be detained in a jail or other secure detention facility intended for the use or primarily used for the detention of adults for up to 24 hours, excluding Saturday, Sunday, and legal holidays, until December 31, 1993 provided:

(1). The facility is not located in a standard metropolitan statistical area and meets the statutory criteria outlined in section 223(a)(14)(A) (B) and (C) of the federal Juvenile Justice Delinquency Act;

(2). The facility complies with mandatory sight and sound

separation standards established by the Department of Corrections in accordance with Title 34-A, section 1208;

(3). The facility has adequate certified correctional staff to monitor and supervise the juvenile at all times during detention; and

(4). The juvenile is detained only for the purpose of awaiting a detention hearing.

Sec. 9. 15 MRSA §3203-A, sub-§7-A is enacted to read as follows:

7-A. Nonsecure custody in secure detention facility.
Notwithstanding other provisions of this Part, a juvenile may be held in nonsecure custody in a building housing a jail or other secure detention facility intended for use or primarily used for the detention of adults for up to 12 hours if the following criteria are met:

A. The area where the juvenile is held is an unlocked, multipurpose area not designed or intended for use as a residential area, such as a lobby, office or interrogation room, which is not designated, set aside, or used as a secure detention area, or is not a part of such an area, or if a secure area, is used only for processing purposes;

B. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;

C. Use of the area is limited to providing nonsecure custody only long enough and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court; and

D. The juvenile is under continuous visual supervision by a law enforcement officer or facility staff person.

Sec. 10. 15 MRSA §3205 is amended to read as follows:

§ 3205. Juvenile in adult-serving jails

After December 31, 1991, No juvenile may be committed or detained in an adult-serving jail or other secure detention facility intended for use or primarily used for the detention of adults after December 31, 1991, except when bound over as an adult, or as provided for under the provisions of section 3203-A, subsection 1, paragraph B-1, or subsection 7, paragraphs A or B-1.

Sec. 11. 17-A MRSA §1203, sub-§1, as repealed and replaced by PL 1985, c. 821, §6, is amended to read:

1. 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 shall be served and the remainder of which shall be suspended. As to both the initial unsuspended portion and the suspended portion relative to a Class A, Class B or Class C crime, the sentence of the court shall specify the place of imprisonment if that place is to be a county jail, otherwise the court shall commit the person to the Department of Corrections.

~~Beginning April 1, 1987, if any portion of a split sentence is specified by the court to be 6 months or less, the court shall specify the place of imprisonment to be a county jail as to that portion.~~ Beginning January 1, 1989, if any portion of a split sentence is specified by the court to be 9 months or less, the court shall specify the place of imprisonment to be a county jail as to that portion. Beginning January 1, 1995, if any portion of a split sentence is specified by the court to be 12 months or less, the court shall specify the place of imprisonment to be a county jail as to that portion. In the case of a Class D or Class E crime, the court shall, after the effective date of this paragraph, specify the place of imprisonment to be a county jail with respect to each portion of the split sentence.

The period of probation shall commence on the date the person is released from his initial unsuspended portion of the term of imprisonment, unless the court orders that it shall commence on an earlier date. If the period of probation is to commence upon release from the initial unsuspended portion of the term of imprisonment, the court may nonetheless revoke probation for any criminal conduct committed during that initial period of imprisonment.

Sec. 12. 17-A MRSA §1252, sub-§1, as repealed and replaced by PL 1985, c. 821, §7, is amended to read:

1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. The sentence of the court relative to a Class A, Class B or Class C crime shall specify the term to be served and the place of imprisonment if that place is to be a county jail, otherwise the court shall commit the person to the Department of Corrections.

~~Beginning-April-17-1987,-if-the-sentence-of-the-court-specifies-the term-of-imprisonment-to-be-6-months-or-less,-the-court-shall-specify the-place-of-imprisonment-to-be-a-county-jail.~~ Beginning January 1, 1989, if the sentence of the court specifies the term of imprisonment to be 9 months or less, the court shall specify the place of imprisonment to be a county jail. Beginning January 1, 1995, if the sentence of the court specifies the term of imprisonment to be 12 months or less, the court shall specify the place of imprisonment to be a county jail. In the case of a Class D or Class E crime, the court shall, after the effective date of this paragraph, specify the place of imprisonment to be a county jail.

Sec. 13. 30-A MRSA §451, sub-§4 is amended to read as follows:

4. Detention. In the case of an adult, "detention" ~~"Detention"~~ means the confining of an adult ~~or-juvenile~~ held in lawful custody in a specially constructed or modified facility designed to ensure continued custody and control. Detention may be confinement before trial or another hearing by a court or confinement to serve court-imposed sentences or dispositions and may be in a jail or lockup. In the case of a juvenile, "detention" means being held in a secure detention facility, as defined in Title 15, section 3003, subsection 24-A.

Sec. 14. 30-A MRSA §458-A is enacted to read as follows:

§ 458-A. Temporary Holding Capacity. By January 1, 1992, each county shall establish the capacity to hold a juvenile for 48 hours excluding Saturday, Sunday and legal holidays, either in a temporary holding resource or in a secure detention facility, as defined in Title 15, section 3003, subsection 24-A.

Sec. 15. 34-A MRSA §1203, sub§2, ¶C is amended to read as follows:

C. The chief advocate and all other advocates shall be classified state employees, except that the chief advocate may assign volunteers and interns to duties within the office with the approval of the commissioner.

Sec. 16. 34-A MRSA §1203, sub§3, ¶D is amended to read as follows:

D. Make and publish reports necessary to the performance of the duties described in this section, except that only the chief advocate may report any findings of the office to groups outside the department, such as legislative bodies, advisory committees to the Governor, boards of visitors, law enforcement agencies and the press. The chief advocate shall report annually to the joint

committee of the Legislature having jurisdiction over corrections matters regarding the activities of the office. A copy of the report must be provided to the Executive Director of the Legislative Council.

Sec. 17. 34-A MRSA §1203, sub§§ 6,7 and 8 are enacted to read as follows:

6. Protection for advocates. An advocate may not be disciplined or sanctioned for any actions taken on behalf of clients if the advocate acts within the laws and within the rules of the department.

7. Protection for employees. Employees of the department may not be disciplined or sanctioned for reporting abuse or suspected abuse to an advocate.

8. Budget. When submitting any budget request to the Legislature, the department and the Governor shall provide that all funds for the Office of Advocacy be listed in a separate account.

Sec. 18. 34-A MRSA §1210-A is enacted to read as follows:

§ 1210-A. Application of juvenile boarding fees

Funds paid by counties to board juveniles at the Maine Youth Center or at other juvenile facilities which are operated by the department must be placed in a special account and expended to develop and support community-based assessment, supervision and treatment programs for juveniles. Funds in this account unexpended at the end of the year may not lapse, but must be carried forward into subsequent years.

Sec. 19. 34-A MRSA §3010 is enacted to read:

§ 3010. Limit on prison population in Knox County

The population of state correctional facilities in Knox County shall not exceed 800 prisoners, unless there are no other beds available for housing prisoners elsewhere, based on their security classifications. Exceeding this population in such an emergency situation shall be done only for the length of time necessary to resolve the emergency.

Sec. 20. 34-A MRSA §5406 is enacted to read:

§5406. Community sentencing options unit; pilot program

1. Definition. As used in this section, unless the context indicates otherwise, "community sentencing options" means alternative corrections programs based in the community in order to provide judges with a range of sentencing options which do not include

incarceration and which use community resources and placements.

2. Establishment. The director, with the approval of the commissioner, shall establish a community sentencing options unit within one of the probation and parole districts.

3. Responsibilities. The unit shall:

A. Prepare pre-sentence investigation reports, including recommendations for community sentencing options when appropriate, for all defendants convicted of Class A, B and C crimes within one probation and parole district; and

B. Arrange and contract with public and private agencies for services necessary to implement community sentencing options.

Sec. 21. 34-A MRS §5602. sub-§5 is enacted to read as follows:

5. Supervision ratio for juvenile caseworkers. Beginning July 1, 1995, the ratio of supervised juveniles to juvenile caseworkers may not exceed 35 to 1. Supervised juveniles means juveniles on court ordered probation or on entrustment from the Maine Youth Center or another juvenile correctional facility or on informal adjustment status. The department may exceed its authorized number of juvenile caseworker positions on an emergency basis for up to 90 days if necessary to meet this ratio.

Sec. 22. Reports. The Department of Corrections shall examine its hiring and training standards for correctional officers and determine the feasibility of increasing the entry-level requirements for correctional officers.

The Department of Corrections shall begin implementation of its master plan recommendations regarding substance abuse treatment, including the establishment of in-patient treatment programs within its facilities.

The Department of Corrections shall consult with officials from labor organizations, the State retirement system and the Department of Administration to determine the feasibility of equalizing employee benefits across correctional institutions.

By January 15, 1991, the Department shall report its findings and progress regarding this section to the joint committee of the Legislature having jurisdiction over corrections matters. A copy of this report must be provided to the Executive Director of the Legislative Council.

Sec. 23 Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

CORRECTIONS, DEPARTMENT OF**Community-based Services-
Bureau of Juvenile Corrections**

All Other	\$75,000
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Provides matching funds for federal grants supporting development of economical and effective community-based alternatives to secure detention for adjudicated and alleged juvenile offenders.

Correctional Services

All Other	\$680,000
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Provides \$500,000 to contract with public and private agencies for services necessary to implement community sentencing options and \$180,000 to contract with community service agencies to assist indigent defendants in preparing proposals for structured sentencing alternatives to incarceration.

Maine Correctional Center

All Other	3,000
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Provides funds to make the Southern Maine Pre-release Center accessible to people with physical handicaps.

Office of Advocacy

Positions	(3.0)
Personal Services	79,192
All Other	38,913
Capital	3,018

TOTAL	121,123
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Provides funds for 2 FTE Advocates and 1 Clerk Typist II, and 35,000 to contract for inmate legal services.

Probation and Parole

Positions	(16.5)
Personal Services	\$466,560
All Other	48,948
Capital Expenditures	9,560
TOTAL	525,068

Provides funds for 4 Probation and Parole Officers, 1.5 Clerk Typist II positions and related expenses to develop a pilot community sentencing options unit within a probation and parole district. Provides funds for 4 Probation and Parole Officers and 4 Clerk Typist III positions and related expenses to develop 2 day centers to divert offenders from incarceration. Provides for 2 adult Probation and Parole Officers and 1 juvenile Probation and Parole Officers to improve overall offender:officer ratios.

Total, DEPARTMENT OF CORRECTIONS 1,404,191

HUMAN SERVICES, DEPARTMENT OF

Community Services Project

All Other	185,000
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Provides funds to demonstrate primary prevention with approximately 210 youth enabling approximately 325 elderly people to live more independently and securely. Of the 210 youth, 50% will be youth at large, 30% will be youth at risk and 20% will be youth referred by the Department of Corrections. This appropriation for a community services project will provide no more than 75% of expenditures to operate 1 program in Rockland, 1 in Portland and 2 programs in other areas of the State.

Total, HUMAN SERVICES, DEPARTMENT OF 185,000

TOTAL APPROPRIATION 1,589,191

STATEMENT OF FACT

Section 1 requires correctional impact statements to be attached to all legislation which affects the State or county

correctional system.

Section 2 requires that juvenile sentencing issues be included in the Maine Criminal Justice Sentencing Institute.

Sections 3 to 10, 13 and 14 amend the laws regarding detention of juveniles and require counties to maintain temporary holding capacity for juveniles.

Sections 11 and 12 require that, as of January 1, 1995, sentences of 1 year or less must be served in county jails.

Sections 15, 16 and 17 amend the section of the statutes relating to the Department of Corrections Office of Advocacy.

Section 18 requires that boarding fees paid by counties to the Maine Youth Center and other facilities be applied by the Department of Corrections to community-based juvenile programs.

Section 19 establishes a maximum of 800 prisoners for Knox County barring emergencies, in which case the maximum can be exceeded until the emergency is resolved.

Section 20 establishes a special unit within a probation and parole district to prepare pre-sentence investigation reports on all defendants convicted of Class A, B or C crimes and offer recommendations for community sentencing options when appropriate.

Section 21 requires the juvenile probation ratio to be no greater than 35 to 1 by July 1, 1995.

Section 22 requires the Department of Corrections to report to the Legislature regarding training of correctional officers, development of substance abuse treatment programs in its facilities, and equalization of employee benefits across its institutions.

Section 23 appropriates funds to carry out the purposes of the Act.

APPENDIX B

SENTENCING COMMISSION BILL

Reported by the Joint Select Committee on Corrections pursuant
to H.P. 1483.

(EMERGENCY)

SECOND REGULAR SESSION

ONE HUNDRED AND FOURTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

Resolve, Establishing an Adult Sentencing Commission.

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

Whereas, the State's correctional resources are severely
overcrowded; and

Whereas, the State's sentencing system directly affects the
State's correctional resources; 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

Commission created; purpose of commission. Resolved: That there is
created the Commission on Adult Sentencing. The commission
shall examine the sentencing system in Maine and shall consider
various alternatives for linking sentencing and

correctional resources to assure that the two remain balanced. The commission shall address at least the following questions:

1. What ongoing information and data are needed in order to make sentencing policy decisions?
2. Should Maine reinstitute parole or an alternative to parole?
3. Would a structured sentencing system, similar to those implemented in Oregon, Minnesota and Washington, be appropriate for Maine?
4. Should the mandated sentence for Class A crimes be adjusted?
5. Should mandatory minimum sentences be eliminated?
6. Should fines be broadened as an alternative to incarceration for some crimes? Would a "day fine" system be appropriate for Maine?
7. What additional alternatives might Maine consider to strengthen the tie between sentencing and correctional resources?
8. How will any recommendations offered by the commission be implemented and at what cost?

Membership; appointment; chair. Resolved: That the commission shall be comprised of 10 members to be appointed within 30 days of the effective date of this resolve as follows:

1. Two Legislators from the Joint Select Committee on Corrections and 2 Legislators from the Joint Standing Committee on Judiciary, to be appointed by the President of the Senate and the Speaker of the House. The President and the Speaker shall designate one of the Legislative members as chair of the commission. Legislative members shall serve for the life of the Commission, regardless of any changes in the status of the Legislative members;
2. One representative from the Department of Corrections appointed by the Commissioner of Corrections;
3. One prosecutor from the Maine District Attorneys' Association appointed jointly by the President of the Senate and the Speaker of the House;
4. One practicing defense attorney appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

5. One sheriff from the Maine Sheriff's Association appointed jointly by the President of the Senate and the Speaker of the House of Representatives; and

6. Two representatives of the general public appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

The chair of the commission shall ask the Chief Justice of the Supreme Judicial Court to designate 1 justice, 1 judge, and 1 representative from the Maine Criminal Justice Sentencing Institute to act as advisors to the commission and to assist the group in coordinating its efforts with judicial efforts in this area; and be it further

Assistance. Resolved: That the Commission may request staffing assistance from the Legislative Council, except that the Legislative Council may not provide staff assistance during the first regular session of the 115th Legislature; and be it further

Meetings; Report. Resolved: That the Commission may hold up to 10 meetings, the first of which must be held no later than June 15, 1990, and the last of which must be held no later than October 15, 1991. The commission shall submit a final report, together with any necessary implementing legislation to the Second Regular Session of the 115th Legislature by November 1, 1991; and be it further

Compensation. Resolved: That the members of the commission who are Legislators shall receive the legislative per diem as described in the Maine Revised Statutes, Title 3, section 2, for days in attendance at commission meetings. All members of the commission who are not State employees shall receive reimbursement for travel and other necessary expenses upon application to the Legislative Council; and be it further