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# Commission To Examine Reestablishing Parole

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Office of Policy and Legal Analysis



**STATE OF MAINE  
130<sup>th</sup> LEGISLATURE  
SECOND REGULAR SESSION**

**Commission To Examine Reestablishing Parole**

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## Executive Summary

The 130<sup>th</sup> Legislature established the Commission to Examine Reestablishing Parole with the passage of Resolve 2021, Chapter 126 (Appendix A). Pursuant to the resolve, 13 members were appointed to the commission: two members of the Senate appointed by the President of the Senate, including one member from each of the two parties holding the largest number of seats in the Legislature; three members of the House of Representatives appointed by the Speaker of the House, including at least one member from each of the two parties holding the largest number of seats in the Legislature; the Commissioner of Corrections or the Commissioner's designee; the Attorney General or the Attorney General's designee; a district attorney, designated by an association representing prosecutors in the State; two members of the public appointed by the President of the Senate, including: a representative of an organization advocating for the interests of people who are incarcerated, and a member who is an expert in criminal procedure; two members of the public appointed by the Speaker of the House, including a member with experience in the fields of criminal sentencing or criminology or with experience in administering parole, and a representative of an organization advocating for the interests of racial minorities; and an active or retired judge or justice, designated by the Chief Justice of the Supreme Judicial Court. A list of commission members can be found in Appendix B.

Pursuant to Resolve 2021, Chapter 126, the commission was charged with the following duties: to “examine parole as it currently operates in this State and in other states; with a specific focus on the parole law in Colorado; the benefits and drawbacks of parole; different models of parole; how parole fits in with the overall framework of the Maine Criminal Code; the effect of parole on parolees; the costs and savings of instituting parole; and the elements of a plan to implement parole.

Over the course of five meetings the commission developed the following findings and recommendations:

### Findings

- **Disparities in the racial demographics among those incarcerated in Maine and the general population of the State are staggering.**
- **Violent crime is ultimately a public health issue and can be cyclical in nature.**
- **The success of any program established to address disparities in the criminal justice system will depend on ensuring adequate resources are available for offenders, victims, and communities to support people in rehabilitation, restorative justice, and to avoid interactions with the criminal justice system in the first place.**

- **The success of any program established to address disparities in the criminal justice system will require that the Legislature carefully consider reforms to other components of the criminal justice system, as no singular component stands in isolation.**

### **Recommendations**

- 1. Establish new mechanisms not currently provided for in Maine law to open pathways for early release of incarcerated persons who no longer pose a threat to public safety.**
- 2. Enhance and amend existing mechanisms currently provided for in Maine law to open pathways for early release of incarcerated persons who no longer pose a threat to public safety.**
- 3. Provide Baseline Funding for Maine Criminal Justice Sentencing Institute.**
- 4. Reestablish parole in Maine.**
- 5. Ensure that any proposal to reestablish parole in Maine includes clear criteria for eligibility, process transparency, and increased support for victims.**
- 6. Establish a new Criminal Law Revision Commission**

## I. INTRODUCTION

The 130<sup>th</sup> legislature established the Commission to Examine Reestablishing Parole (referred to in this report as the “commission”) with the passage of Resolve 2021, chapter 126, sponsored by Representative Evangelos of Friendship.

Pursuant to the resolve, 13 members were appointed to the commission: two members of the Senate appointed by the President of the Senate, including one member from each of the two parties holding the largest number of seats in the Legislature; three members of the House of Representatives appointed by the Speaker of the House, including at least one member from each of the two parties holding the largest number of seats in the Legislature; the Commissioner of Corrections or the Commissioner's designee; the Attorney General or the Attorney General's designee; a district attorney, designated by an association representing prosecutors in the State; two members of the public appointed by the President of the Senate, including: a representative of an organization advocating for the interests of people who are incarcerated, and a member who is an expert in criminal procedure; two members of the public appointed by the Speaker of the House, including a member with experience in the fields of criminal sentencing or criminology or with experience in administering parole, and a representative of an organization advocating for the interests of racial minorities; and an active or retired judge or justice, designated by the Chief Justice of the Supreme Judicial Court.

The resolve designated the first-named member of the Senate as the Senate chair and the first-named member of the House of Representatives as the House chair. As such, Senator Craig Hickman and Representative Charlotte Warren served as chairs of the commission. A list of commission members can be found in Appendix B.

The resolve authorized the commission to meet four times,<sup>1</sup> and charged the commission with the following duties: To “examine parole as it currently operates in this State and in other states, with a specific focus on the parole law in Colorado, the benefits and drawbacks of parole, different models of parole, how parole fits in with the overall framework of the Criminal Code, the effect of parole on parolees, the costs and savings of instituting parole and the elements of a plan to implement parole.”

Over the course of five meetings, the commission received several presentations relevant to its duties from state government agencies, advocate organizations, national experts, and key stakeholders. The commission held public comment periods at each of its meetings and accepted written testimony throughout the entire process of its work. Many commission members also visited the Maine State Prison and Women’s Center, facilities run by the Maine Department of

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<sup>1</sup> Although the resolve authorized only four meetings, the commission requested an additional meeting which was approved by the Legislative Council, for total of five meetings.

Corrections, to hear directly from the people who would be most directly affected by the reestablishment of parole. A full list of presentations, written testimony, and submissions to the commission can be found in Appendices E and K.

In its examination of the prison system in Maine, the commission found the disparities in the racial demographics between those incarcerated in Maine and the general population of the State to be staggering. The disparities are clearly represented in the Maine Department of Corrections Year-End Adult Data Reports from 2021 and 2020,<sup>2</sup> which include data showing that 18% of the male prison population and 12% of the female prison population is non-white, whereas only 5.8% of the state population is non-white, as of the last census.<sup>3</sup> These disparities are further reflected in the length of sentences received, and access to currently provided pathways for early release, such as the Supervised Community Confinement Program. This is a glaring injustice that must be addressed in order to ensure a criminal justice system that is fair and just.

Resolve 2021, chapter 126, charged the commission with submitting a report of its findings and recommendations, including any suggested legislation, to the Joint Standing Committee on the Judiciary by December 1, 2022. The following sections provide a brief history and background of parole in Maine, a brief overview of Maine’s current systems for early release, and an outline of the commission’s process over the course of its five meetings. The commission’s findings and recommendations are discussed in Section IV.

## **II. BACKGROUND & HISTORY**

### **A. The Establishment of Parole in Maine**

The history of parole in Maine dates back to 1913 when the Maine Legislature passed Public Law 1913, chapter 60, establishing a system of parole, the State’s first parole board,<sup>4</sup> and replacing the State’s “determinate” sentencing system, where a person would receive a sentence for a fixed period of time, with what would later become known as “indeterminate” sentencing, which generally refers to systems where a person’s sentence is open for reevaluation by corrections administrators.<sup>5</sup> For those issued and serving sentences, this change meant they

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<sup>2</sup> Me. Dep’t of Corrections, (2021) *Year End Data Report 2021*.

<sup>3</sup> U.S. Census Bureau (2020). *Quick Facts*. Retrieved from: <https://www.census.gov/quickfacts/ME>.

<sup>4</sup> This coincided with the creation of the State Board of Charities and Corrections, which became Department of Public Welfare and the Bureau of Institutional Services in 1931, then the Department of Institutional Services in 1939, and then the Department of Mental Health and Corrections in 1959. The Bureau of Corrections was created in 1967, and it was not until 1981 that the Legislature created the Department of Corrections. See Maine State Archives webpage: <https://www.maine.gov/sos/arc/>.

<sup>5</sup> Prior to the establishment of parole, Maine’s system was referred to as a “definite” sentencing system, however the features of that system are encompassed with what later became known as “determinate” sentencing. As applied to sentencing “determinate” and “indeterminate” are terms that refer to general theories of sentencing, rather than specific systems. “Determinate” sentencing models aim to provide a clearly set amount of time that a person will serve their sentence. “Indeterminate” sentencing models create flexibility to reevaluate and adjust time served based

would receive a range of time to be served, set between a minimum and a maximum length, and become eligible for parole at the expiration of their minimum sentence. For example, a person who would have previously been sentenced to a fixed term of 10 years in prison, not open for reevaluation, would instead receive a sentence with a minimum and a maximum length of time as determined appropriate by the sentencing judge, and receive a hearing by the parole board at the expiration of the minimum term.

At the time, the statutory minimum for sentences of more than two years was one-half of the sentence maximum. This meant a sentence with a 10-year maximum would have a 5-year minimum, and the statutory minimum for a sentence of less than two years was set at 1 year, meaning that a sentence with a 1.5 year maximum would have a 1 year minimum.

With the exception of those convicted of two or more prior felonies, and those convicted of life sentences, all people imprisoned by the State were eligible for parole after serving their minimum sentence, as adjusted for “good-time” credits.<sup>6</sup> As it was established in 1913, the following is a basic outline of Maine’s system of parole.

1. During the sentencing stage, the judge, if having decided incarceration was appropriate, would set a minimum and maximum term of confinement.
2. Once a person had served their minimum sentence, as adjusted for good-time credits, they would become eligible for review by the parole board.<sup>7</sup>
3. If, upon review of a person’s application for parole, it was determined that parole was appropriate, the person would be released on parole under the expectation of compliance with a number of conditions.<sup>8</sup>
4. The person would serve the remainder of their term on parole, as long as they did not violate the conditions set by the parole board. If a person violated the conditions, the parole board had the authority to return the person to prison.

A person released on parole was still considered to be serving their sentence and remained “in the legal custody and under the control of the warden or superintendent of the prison from which he is paroled and shall be subject at any time to be taken back within the enclosure of said prison

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on the individual circumstances of each person sentenced. *For further discussion of these sentencing models see Donald F. Anspach, Peter M. Lehman & John H. Kamer, Maine Rejects Indeterminacy: A Case Study of Flat Sentencing and Parole Abolition*, 1-7, 34-37 (University of Southern Maine, funded by Dep’t of Justice 1983). Accessible at: <https://www.ojp.gov/pdffiles1/Digitization/94367NCJRS.pdf>; Melvyn Zarr, *Sentencing*, 28 ME. L. REV. 117 (1976). For further discussion regarding how sentencing worked prior to the establishment of the Maine Criminal Code see also Zarr, *Sentencing*, 135-143 (1976).

<sup>6</sup> “Good time” is the term used to describe the practice of reducing the number of days a person is required to serve by meeting certain conditions, such as good behavior or participation in rehabilitation programs. Maine’s statutory provisions regarding the deduction of time from sentences are located in Title 17-A M.R.S. §2305 (2022).

<sup>7</sup> For certain cases the authority to grant parole was conferred exclusively on the Governor, see P.L. 1913, ch. 60, §6.

<sup>8</sup> P.L. 1913, ch. 60, §§7-14; for a further outline of how parole operated prior to the establishment of the Maine Criminal Code, see also Zarr, *Sentencing*, 135-143 (1976).



for any reason that may be satisfactory to the warden or superintendent.”<sup>9</sup> This aspect of parole distinguished it from the Governor’s pardon power, since a person on parole was still under the custody of the State and could be brought back to prison for violating the conditions of release.

## **B. The Distinction Between Parole and Pardon**

The distinction between parole and the Governor’s pardon power, as set forth in Article V, Section 11 of the Maine Constitution, has been a recurring issue over the history of parole in Maine. By 1965 the Legislature included a provision explicitly distinguishing parole from the Governor’s pardon and commutation power.<sup>10</sup> Later, in 1986, the distinction was further addressed by the Supreme Judicial Court of Maine in the seminal case *Gilbert v. State* when the Court noted that parole “does not shorten the length of a sentence. Instead, parole is a change in the manner in which a sentence is served in that the parolee remains under the custody of the institution from which he is released but executes the unexpired portion of his sentence outside of confinement.”<sup>11</sup> Concerns regarding the possibility that reestablishing parole in Maine could potentially infringe on the Governor’s pardon power were even expressed in testimony at the public hearing for the bill that eventually became the establishing Legislation for this commission, LD 842, as considered by the Joint Standing Committee on Judiciary during the 130<sup>th</sup> Legislature.<sup>12</sup>

## **C. The Eligibility of Life Sentences for Parole**

The Maine Revised Statutes underwent a recodification in 1964 which resulted in the creation of the Maine Revised Statutes Title 34, in 1965. This title contained the laws regarding parole in Maine and would eventually be replaced by Title 34-A in 1976, with the establishment of the Criminal Code and the abolition of parole in Maine for sentences issued moving forward.<sup>13</sup> Despite undergoing many modifications, the basic structure of parole in Maine remained the same through the 1965 recodification and up until 1976. However, by 1965 numerous provisions had been added to the structure of parole in Maine, including permitting parole for certain life sentences.<sup>14</sup>

As originally established in Maine, parole excluded persons “convicted of an offense the only punishment for which prescribed by law is imprisonment for life” from eligibility.<sup>15</sup> That

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<sup>9</sup> P.L. 1913, ch. 60, §9.

<sup>10</sup> 34 M.R.S.A. §1551 (1965).

<sup>11</sup> *Gilbert v. State*, 505 A.2d 1326, at 1328 (Me.1986).

<sup>12</sup> Attorney General, Letter to Judiciary Committee Re: LD 842 (April 22, 2021). Available at: <https://legislature.maine.gov/testimony/resources/JUD20210422Frey132635724255775862.pdf>; Criminal Law Advisory Commission, Memo to Committee on Judiciary Re: LD 842 (April 19, 2021). Available at: <https://legislature.maine.gov/testimony/resources/JUD20210422Pelletier132633358310883534.pdf>; for a full list of written testimony *see also* [http://www.mainelegislature.org/legis/bills/display\\_ps.asp?id=842&PID=1456&snum=130#](http://www.mainelegislature.org/legis/bills/display_ps.asp?id=842&PID=1456&snum=130#); Maine 130 - H.P. 610, Item 1 (LD 842) is available in Appendix J.

<sup>13</sup> The parole statutes are now located in 34-A M.R.S.A. Chapter 5 (2022).

<sup>14</sup> 34 M.R.S.A. §1672 (1965).

<sup>15</sup> P.L. 1913 ch. 60, §3.

provision remained until 1953, when the 96th Legislature reversed course and explicitly made parole available for persons convicted of life sentences.<sup>16</sup> By the time of the 1964 recodification, the Legislature had included provisions further specifying how parole would apply to life sentences.<sup>17</sup> A person serving a life sentence would only become eligible for a hearing by the parole board after serving 30 years of imprisonment, less deductions for good behavior,<sup>18</sup> and the parole board was prohibited from discharging a parolee convicted of a life sentence until that person had been on parole for at least 10 years.<sup>19</sup> Immediately prior to the 1976 enactment of the Criminal Code, and the elimination of parole in Maine, the minimum time of incarceration for a person serving a life sentence to be eligible for a hearing by the parole board had been reduced from 30 years to 15 years.<sup>20</sup>

Currently, for those convicted prior to the enactment of the Criminal Code in 1976, the relevant provisions are located in Title 34-A, Chapter 5. A person serving a life sentence only becomes eligible for a hearing by the parole board after serving 15 years of imprisonment, less deductions for good behavior.<sup>21</sup> The parole board is prohibited from discharging a parolee convicted of a life sentence until that person has been on parole for at least 10 years.<sup>22</sup>

#### **D. Establishment of the Criminal Code and Abolition of Parole**

Commenters have noted that the underlying design of Maine’s indeterminate sentencing system and system of parole was an attempt at a rehabilitative model of justice.<sup>23</sup> The efficacy of rehabilitative models came under scrutiny during the 1970s, alongside a nationwide reevaluation of the criminal justice system that resulted in a move toward determinate sentencing.<sup>24</sup> Driving this reevaluation was a broad range of concerns regarding the criminal justice system, influenced by changing attitudes about the possibility of rehabilitating offenders. Also present were concerns around the amount of discretion available to corrections administrators and concerns

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<sup>16</sup> P.L. 1953 ch. 382.

<sup>17</sup> 34 M.R.S.A. §§181-195 (1965).

<sup>18</sup> 34 M.R.S.A. §1672, sub-§3 (1965).

<sup>19</sup> 34 M.R.S.A. §1678 (1965).

<sup>20</sup> 34 M.R.S.A. §1672 (Supp. 1973). This citation is based on the M.R.S.A. Volume 15, 1973 Supplementary Pamphlet. Staff worked with the Law and Legislative Reference Library to locate this provision. The 1973 Supplementary Pamphlet was the closest record staff could locate. The 1974 Supplementary Pamphlet, does not include these sections and the 1975 Supplementary Pamphlet shows these sections as repealed. As discussed in footnote 41, the Criminal Code was passed in 1975 and became effective in 1976. The reduction to 15 years for cases of life imprisonment shown in the 1973 Supplementary Pamphlet is consistent with the current provisions for those sentenced prior to the establishment of the Criminal Code in 1976, under 34-A M.R.S.A §5803 (2022).

<sup>21</sup> 34-A M.R.S.A. § 5803, sub-§3 (2022).

<sup>22</sup> 34-A M.R.S.A. § 5809 (2022).

<sup>23</sup> Anspach et al, *Maine Rejects Indeterminacy*, 19 (1983).

<sup>24</sup> Michael Kebede, American Civil Liberties Union of Maine, presentation to the commission titled “The History and Constitutionality of Parole in Maine”, Sept 8, 2022. Appendix L.

regarding predictability, transparency, and fairness in sentencing.<sup>25</sup> One commenter noted additional complicating pressures as follows:

“Prison officials were exerting pressure to release prisoners as a means of reducing prison crowding. Opposing pressures came from the media, victims, and elected officials to keep more offenders incarcerated, especially those involved in violent or sensational crimes. Parole boards were also attempting, in some states, to use parole release as a means of reducing the disparity of sentences handed down by criminal courts. And despite pressure to base parole decisions on objective criteria, many paroling officials resisted in order to permit some flexibility to balance interests of the diverse pressure groups in their decisions. But such subjectivity and the inability to articulate a clear mission complicated and weakened the ability of parole proponents to defend it.”<sup>26</sup>

It is in this context that in 1971, Maine’s 104th Legislature passed an “Act to Create a Commission to Prepare a Revision of the Criminal Laws.” This law created the Criminal Law Revision Commission (the “Revision Commission”), which was tasked with drafting a complete revision of the criminal laws in Maine to create “a fully modern, integrated and consistent criminal code.”<sup>27</sup> The Revision Commission began meeting in April 1972 and, over the course of 45 meetings, completed its work in 1975.<sup>28</sup> The Revision Commission’s work focused on numerous aspects of Maine’s criminal laws and provided major changes such as: uniformity of definitions; the decriminalization of offenses deemed “not of sufficient threat to public order” to require criminal penalties; and the creation of the offense classification system currently used in Maine.<sup>29</sup> The preamble to the Criminal Code also noted that while the commission’s work was the result of much compromise and the need to make difficult choices, ultimately “the revision as a whole represented a reasonable balance between compassion for the offender and a concern for the interests of society.”<sup>30</sup>

Some of the Revision Commission’s work was handled by designated subcommittees that focused on particular areas of the criminal law. The Revision Commission’s Subcommittee on Sentencing (the “Sentencing Subcommittee”) was tasked with restructuring Maine’s sentencing provisions.<sup>31</sup> The Sentencing Subcommittee considered two separate sentencing models for incorporation into the Criminal Code. The first model limited the discretion of the judicial branch and expanded Maine’s system of parole, providing greater discretion to what was then the

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<sup>25</sup> Anspach et al, *Maine Rejects Indeterminacy*, 1-7, 23-26 (1983); Barbara Krauth, *Parole: Controversial Component of the Criminal Justice System*, Observations on Parole: A Collection of Readings from Western Europe, Canada, and the United States, Association of Paroling Authorities International, 51 (1987).

<sup>26</sup> Krauth, *Parole*, 52 (1987).

<sup>27</sup> P.S.L. 1971, ch. 147.

<sup>28</sup> Maine Criminal Law Revision Commission, Preamble to Accompany Proposed Maine Criminal Code, 3 (1975). Accessible at: [http://ldc.mainelegislature.org/Open/LDs/107/107-LD-0314\\_Preamble.pdf](http://ldc.mainelegislature.org/Open/LDs/107/107-LD-0314_Preamble.pdf); for a full list of those who served on the Criminal Law Revision Commission, see Preamble to Criminal Code, 6-7 (1975).

<sup>29</sup> Preamble to Criminal Code, 4 (1975).

<sup>30</sup> *Id.*, at 3.

<sup>31</sup> Anspach et al, *Maine Rejects Indeterminacy*, 23 (1983).

Department of Mental Health and Corrections, and setting limits on the amount of time a person could serve in prison before being released on parole.<sup>32</sup> By contrast, the second model provided more authority to the judicial branch and replaced Maine’s system of parole with the split sentencing regime that now exists in Maine,<sup>33</sup> empowering judges to issue sentences with “unsuspended” portions served in prison and “suspended” portions served on probation.

There were several factors that likely led the Revision Commission to recommend the split sentencing model to the Legislature along with the abolition of parole, addressed in numerous sources cited below.<sup>34</sup> A few of the major factors noted by commenters include: The nationwide movement away from indeterminate sentencing, which had been criticized for the lack of certainty it created, both for victims and those serving sentences;<sup>35</sup> The report of the 1974 Governor’s Task Force on Corrections, that was largely critical of the Department of Mental Health and Correction’s ability to effectuate rehabilitation for criminal offenders;<sup>36</sup> and, the increasing criticism of Maine’s parole board for lacking transparency in its decision making.<sup>37</sup>

One of the major changes included in the enactment of the Criminal Code was the establishment of the crime classes used in Maine today. As noted in the 1976 Maine Law Review article *Sentencing* by Melvyn Zarr:

“Under the pre-Code law, each crime carried its own penalty. This led to a situation where there were more than sixty distinctive sentencing provisions in the statutes. Since each sentencing provision represented an ad hoc judgment expressing the mood of the legislature at the time, the scheme of penalties reflected a lack of coherence. The Maine Criminal Code has set about to rectify this incoherence by establishing a classification system along the lines advanced by the Model Penal Code.”<sup>38</sup>

At the time the sentencing classifications were as follows:

- A. In the case of a Class A crime, the court shall set a definite period not to exceed 20 years;
- B. In the case of a Class B crime, the court shall set a definite period not to exceed 10 years;
- C. In the case of a Class C crime, the court shall set a definite period not to exceed 5 years;
- D. In the case of a Class D crime, the court shall set a definite period of less than one year;
- E. In the case of a Class E crime, the court shall set a definite period not to exceed 6 months.<sup>39</sup>

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*; Preamble to Criminal Code, 4-5 (1975); *see also* Anspach et al, *Maine Rejects Indeterminacy*, 21-26 (1983) for an analysis of the different models considered by the subcommittee.

<sup>34</sup> Anspach et al, *Maine Rejects Indeterminacy*, 23-26 (1983).

<sup>35</sup> *Id.*, at 20; *see also* Donald F. Anspach and S. Henry Monsen, *Determinate Sentencing, Formal Rationality, and Khadi Justice in Maine. An Application of Weber’s Typology*, *Journal of Criminal Justice* Vol. 17, 471 (1989).

<sup>36</sup> Anspach et al, *Maine Rejects Indeterminacy*, 24 (1983).

<sup>37</sup> *Id.* at 25; Anspach and Monsen, *Determinate Sentencing*, 473 (1989).

<sup>38</sup> Zarr, *Sentencing*, 118 (1976).

<sup>39</sup> 17-A M.R.S.A. §1252 (Supp. 1975).

Only two crimes were left outside of this classification system. First degree homicide, which carried a mandatory sentence of life imprisonment; and second degree homicide, which carried a mandatory sentence of not less than 20 years.<sup>40</sup>

The Revision Commission’s work eventually led to the establishment of the Criminal Code in 1976,<sup>41</sup> which included a requirement that persons sentenced to imprisonment be confined for a definite period of time, rather than an indeterminate period. The preamble to the bill stated that release “will no longer depend on parole board decisions but on the willingness of the prisoner to earn the ‘good time’ deductions authorized by law.”<sup>42</sup> Under the new system, which was based on the approach in the Model Penal Code,<sup>43</sup> a judge issues a sentence deemed appropriate based on the class of the crime and the underlying facts. That sentence has a set length, and the only reduction of time served would be through earned “good time” credits outlined in statute.<sup>44</sup>

This marked the end of parole in Maine for sentences issued after the effective date of that law, making Maine one of the first states in the nation to abolish parole.<sup>45</sup> However, parole remains for those sentenced prior to 1976.<sup>46</sup> It is governed by the provisions of Title 34-A, Chapter 5 and administered through the State Parole Board Rules and Policy.<sup>47</sup>

Following Maine’s abolition of parole and adoption of the reformed sentencing structure, many commenters have weighed in on the results of the new system and the efficacy of that system in achieving the goals stated by its proponents. Debates surrounding the levels of predictability and fairness, the efficacy of judicial discretion versus that of corrections officials,<sup>48</sup> and the amount of actual determinacy in Maine’s criminal sentencing system have been especially prominent.<sup>49</sup> There has also been some level of debate surrounding the underlying assumptions about national public attitudes on parole in the time period during and immediately following its abolition in Maine.<sup>50</sup>

## **E. Sentencing Post-Enactment of the Criminal Code**

Following the enactment of the Criminal Code and the abolition of parole in Maine, there have been a number of attempts to revisit Maine’s sentencing model and the availability of community supervision alternatives to probation. Criticisms regarding predictability in sentencing and the

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<sup>40</sup> 17-A M.R.S.A §1251 (Supp. 1975); *see also* Preamble to Criminal Code, 4 (1975).

<sup>41</sup> P.L. 1975, ch. 499, passed in 1975, but became effective in 1976 under 17-A M.R.S.A. §1, sub-§2 (1976); *see also*, Maine Criminal Code Revision 1975-1976. Available at: <https://www.maine.gov/legis/lawlib/lldl/criminalcode/index.html>.

<sup>42</sup> Preamble to Criminal Code, 5 (1975).

<sup>43</sup> Preamble to Criminal Code, 4 (1975).

<sup>44</sup> Anspach and Monsen, *Determinate Sentencing*, 472-473 (1989); *see also* Zarr, *Sentencing*, 143-147 (1976).

<sup>45</sup> Anspach et al, *Maine Rejects Indeterminacy*, iii, 23 (1983); Krauth, *Parole*, 52 (1987).

<sup>46</sup> 34-A M.R.S.A. §5801 (2022).

<sup>47</sup> 03-208 C.M.R. ch. 1 (2022). Accessible at: <https://www.maine.gov/sos/cec/rules/03/chaps03.htm>.

<sup>48</sup> Zarr, *Sentencing*, 135-136, footnote 68 (1976).

<sup>49</sup> Anspach et al, *Maine Rejects Indeterminacy*, 34-37 (1983); Anspach and Monsen, *Determinate Sentencing*, 473-485 (1989); *see also* Zarr, *Sentencing*, 118, 121, 143-147(1976).

<sup>50</sup> Krauth, *Parole*, 55-56 (1987).

amount of judicial discretion in Maine’s system<sup>51</sup> have led to a number of attempts at reform. One such attempt came from the Maine Sentencing Guidelines Commission, established by the 111th Legislature,<sup>52</sup> which recommended that Maine implement advisory, rather than mandatory, sentencing guidelines.<sup>53</sup> The need for sentencing guidelines was a continuous topic of debate following the establishment of the Criminal Code, particularly in reference to the question of whether or not there was demographic disparity in sentences issued in Maine.<sup>54</sup>

In 1988 during the 113<sup>th</sup> Legislature, the Joint Select Committee on Corrections, in its final report, discussed the perception that with 53% of sentences utilizing probation, it had become a replacement system for parole in Maine.<sup>55</sup> The committee noted in its report two concerns with this use of the split sentencing system:

“First, when judges sentence an offender to a split sentence, there is no control in the system which allows a determination of the offender’s readiness for release. In some cases as much as five years pass before the probation term begins automatically, with no review. Secondly, since there is no policy standard for the use of the split sentence, the amount of time required on probation varies sharply among offenders and offense types.”<sup>56</sup>

Maine’s current system for sentencing is codified in Title 17-A, Chapter 63, and is discussed in further detail in the following section on Maine’s current system.

There have also been numerous attempts to reestablish parole in Maine. The first, in 1981 when “the perception of prison overcrowding led to a move, supported by corrections officials, to reinstate the parole board.”<sup>57</sup> Commenters noted that “the bill was supported by advocates of determinacy because release decisions of the new parole board would be based on guidelines” but opponents argued that “reinstating parole would undermine a major objective of Maine’s sentencing policy: the certainty of sentences would be reduced by increasing the diffusion of sentencing power.”<sup>58</sup>

Since 1981 and prior to the consideration of LD 842 by the 130<sup>th</sup> Legislature, the bill that ultimately created this commission, there have been at least five bills introduced to reinstate parole in Maine, many of which bear a similar structure to the original version of LD 842.<sup>59</sup>

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<sup>51</sup> Anspach and Monsen, *Determinate Sentencing*, 473 (1989).

<sup>52</sup> P.S.L. 1983, ch. 53.

<sup>53</sup> Final Report of the Maine Sentencing Guidelines Commission, established by P.S.L. 1983, ch. 53, 3 (1984).

<sup>54</sup> Anspach and Monsen, *Determinate Sentencing*, 474-475 (1989).

<sup>55</sup> Final Report of the 113<sup>th</sup> Legislature’s Joint Select Committee on Corrections, 34 (1988). This report also noted that Maine’s percentage of offenders on probation was 10% above the national average in 1988.

<sup>56</sup> Joint Select Committee on Corrections Report, 34 (1988).

<sup>57</sup> Anspach and Monsen, *Determinate Sentencing*, 474 (1989).

<sup>58</sup> *Id.*

<sup>59</sup> See “Timeline of Parole in Maine” in Appendix C for a list of bills introduced regarding parole; see also Appendix I for a chart of bills since 1976 that reference parole. Staff worked with the Law and Legislative

Concerns around prison overcrowding in Maine continued through the 1980s and eventually led to the establishment of the Maine Corrections Summit, in May 1991.<sup>60</sup> The summit was created in response to the confluence of the State’s prison overcrowding crisis and a funding crisis that limited the State’s ability to respond to it.<sup>61</sup> The final report of the summit opened with the following “[t]he Maine Correctional System is in crisis. Prisoners are continuing to flow in. But money for facilities, staff, and programs is declining. As a result, facilities like the central Maine Pre-Release Center... are threatened with closure.”<sup>62</sup> The summit was held at the Augusta Civic Center on May 7, 1991, it met for one day and it included judges, district attorneys, corrections officials, legislators, police, and concerned citizens.<sup>63</sup> The recommendations in the final report of the summit included, in the short term, the expansion of alternatives to incarceration and that the State begin planning to reestablish parole.<sup>64</sup>

The solution reached by the State was the creation of Maine’s Supervised Community Confinement Program, established by Public Law 1991, Chapter 845, in the 115<sup>th</sup> Legislature. May 1991 articles from the Portland Press Herald and Bangor Daily News noted that the cost of monitoring individuals on supervised community confinement would be in the range of \$10-\$15 per day, instead of \$55 per day within a correctional facility, and provided the Department of Corrections with an effective means to address the issue of overcrowding.<sup>65</sup>

## **F. Current Systems that Alter the Length or Manner in Which a Sentence is Served**

As discussed above, Maine abolished parole in 1976 when it established the Criminal Code. While Maine continues to have statutes governing parole, and an active parole board, only those sentenced prior to the enactment of the Criminal Code are eligible for parole.<sup>66</sup> There are currently 11 people serving on parole, and 5 remaining who could theoretically become eligible, although 4 of those people are serving consecutive sentences.<sup>67</sup> Maine’s system of parole is governed by Title 34-A, Chapter 5, subchapter 5. Parole generally becomes available after the expiration of half a person’s sentence, or at the expiration of a 15 year term in cases of life imprisonment.<sup>68</sup> The term and conditions of parole are set by the parole board established under Title 34-A, subchapter 2.<sup>69</sup> Supervision of persons on parole is administered by probation officers under the Department of Corrections. Probation officers and caseworkers provide input

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Reference Library to identify legislative proposals regarding parole, the list provided is a list of bills that staff identified. There may be additional proposals not covered in this document.

<sup>60</sup> Final Report of the Maine Corrections Summit, 1 (1991).

<sup>61</sup> See news clippings in Appendix G.

<sup>62</sup> Final Report of the Maine Corrections Summit, 1 (1991).

<sup>63</sup> *Id.*

<sup>64</sup> Final Report of the Maine Corrections Summit, 2-3 (1991).

<sup>65</sup> Appendix G.

<sup>66</sup> See LD 842. Appendix J.

<sup>67</sup> Testimony from Richard Harburger at third commission meeting is available at: [Maine Legislature Video Archive, SH 437, 10-14-22.](#)

<sup>68</sup> 34-A MRSA §5803 (2022).

<sup>69</sup> 34-A MRSA §5802 (2022).

in the parole hearing process, but the outcome is ultimately left up to the parole board. Maine's current parole board is made up of five members, appointed by the Governor, they are required to be citizens of the state and "have special training or experience in law, sociology, psychology or related branches of social science."<sup>70</sup>

### i. An Overview of Sentencing in Maine

Maine's current sentencing system is codified in Title 17-A, Chapter 63, with the basic procedure set forth in §1602, sub-§1, as follows:

**"1. Class A, Class B or Class C crimes.** In imposing a sentencing alternative pursuant to section 1502 that includes a term of imprisonment for a Class A, Class B or Class C crime, in setting the appropriate length of that term as well as any unsuspended portion of that term accompanied by a period of probation or administrative release, the court shall employ the following 3-step process.

A. First, the court shall determine a basic term of imprisonment by considering the particular nature and seriousness of the offense as committed by the individual.

B. Second, the court shall determine the maximum term of imprisonment to be imposed by considering all other relevant sentencing factors, both aggravating and mitigating, appropriate to the case. Relevant sentencing factors include, but are not limited to, the character of the individual, the individual's criminal history, the effect of the offense on the victim and the protection of the public interest.

C. Third, the court shall determine what portion, if any, of the maximum term of imprisonment under paragraph B should be suspended and, if a suspension order is to be entered, determine the appropriate period of probation or administrative release to accompany that suspension."

The process set forth in §1602, sub-§1, is the codification of the sentencing process determined by the Supreme Judicial Court of Maine in the seminal case *State v. Hewey*,<sup>71</sup> and operates alongside the other provisions of Title 17-A, Chapter 63 to govern criminal sentencing in Maine.

Maine's current classification system defining maximum terms of imprisonment is outlined in Title 17-A §1604 as follows:

A. In the case of a Class A crime, 30 years;

B. In the case of a Class B crime, 10 years;

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<sup>70</sup> 34-A MRSA §5202 (2022).

<sup>71</sup> *State v. Hewey*, 622 A.2d 1151, 1154-1155 (1993).



- C. In the case of a Class C crime, 5 years;
- D. In the case of a Class D crime, less than one year; or
- E. In the case of a Class E crime, 6 months.<sup>72</sup>

The crime of murder is not included within this classification system. Murder is addressed separately under §1603, which requires that a “person convicted of the crime of murder must be sentenced to imprisonment for life or for any term of years that is not less than 25.” That provision also includes sentencing considerations regarding domestic violence, the victim's age, and pregnancy status, and includes requirements regarding specificity in sentence length.

However, the process described in §1602 and the maximum terms set forth in §1604, sub-§1 are merely starting points, as additional subsections in §1604 describe mandatory minimums for specific sentences, circumstances that elevate the class of a crime, and special weight for aggravating factors. Title 17-A, Chapter 63, also contains provisions governing other aspects of sentencing including, but not limited to, imprisonment for the crime of murder, how to handle concurrent and consecutive sentences, and a prohibition on imprisonment for failure to pay a fine.

A wide range of authorized sentences and sentencing alternatives is provided under Title 17-A, Chapter 61. Among those sentencing alternatives is the option to impose a suspended term of imprisonment with probation, or a split sentence of imprisonment with probation.<sup>73</sup> Probation is established under Title 17-A §1807 and is one key component of the split sentencing model referenced above. For split sentences, time that must be served in a correctional facility is referred to as the unsuspended portion of the sentence, and time served on probation is referred to as the suspended portion of the sentence.<sup>74</sup> The length of each portion of the sentence is determined by the court at the sentencing stage.<sup>75</sup> While on probation, a person may serve their remaining sentence outside of a correctional facility, subject to any number of specific conditions, outlined in §1807, sub-§2, which are determined by the court at the sentencing stage. If a person violates any of the conditions of probation, that person can be required to serve the remainder of their sentence in a correctional facility.<sup>76</sup>

Maine currently has two primary post-conviction mechanisms that either shorten the amount of time served or change the manner in which a sentence is served: earned time deductions; and the Supervised Community Confinement Program.

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<sup>72</sup> 17-A M.R.S.A. §1604, sub-§1 (2022).

<sup>73</sup> 17-A M.R.S.A. §1502 (2022).

<sup>74</sup> 17-A M.R.S.A. Chapter 67 (2022).

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

## ii. Statutory Deductions from Sentences

Under Maine’s current system, once a person has received a sentence the only mechanism for adjusting the length of the sentence outside the of the judicial process is through sentence deductions outlined in statute. The most commonly discussed way this happens is through what are referred to as “good-time” deductions, which are outlined in statute under Title 17-A, chapter 81. There are three separate codes that are applicable based on when a sentenced was issued. The 1983 code is located under 17-A §2310, the 1995 code is under 17-A §2309, and the 2004 code is under 17-A §2307-2308. The specifics of how each code is applied are outlined in the Department of Corrections’ presentation in Appendix D. Those serving life sentences are not eligible for good-time deductions.

There are also other applicable deductions available in Chapter 81, such as deductions for time detained while awaiting trial under §2305 and certain special circumstances outlined in §2306. Good time deductions are applied based on a resident’s good behavior. The criteria for good behavior include, but are not limited to: engaging in work, participation in vocational programing, receiving education and consistently exemplifying compliance with rules.<sup>77</sup> Good time is calculated based on the unsuspended portions of a sentence only.<sup>78</sup>

## iii. Supervised Community Confinement Program

Community supervision is a general term used to refer to different programs offered by jurisdictions for persons to serve their sentences outside the confinements of a corrections facility. The National Conference of State Legislatures has a number of useful resources regarding community supervision, which includes a database of significant enactments across the United States.<sup>79</sup> Maine currently has two primary community supervision mechanisms: probation and supervised community confinement.

The Supervised Community Confinement Program (SCCP) is administered by the Department of Corrections, and is meant to provide a means of successful reentry of adult facility residents into the community. Residents transferred to the program are still considered to be in the legal custody of the Department, but they are able to serve the remainder of their sentences at an approved residence, rather than in a department facility. SCCP is administered at the discretion of the Department of Corrections, pursuant to its statutory authority under Title 17-A §3036-A and its program rule.<sup>80</sup> Participation in the program is a privilege which may be afforded to residents who meet the eligibility criteria including, but not limited to: being classified as minimum or community custody (low-risk status); no discipline within the last 90 days; and

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<sup>77</sup> Department of Corrections Presentation Slides and Handouts. Appendix M.

<sup>78</sup> *Id.*

<sup>79</sup> See “Information Requests” in Appendix C.

<sup>80</sup> See Appendix D.

satisfactory participation in programs offered by the department.<sup>81</sup> Residents are responsible for working with their case manager to develop and submit an individualized plan for their participation in the program.<sup>82</sup>

There are also baseline criteria for the remaining time on a person's sentence in order to qualify for the program. A person must have no more than 30 months remaining on their sentence after deductions are made for good time.<sup>83</sup> If a resident is sentenced to a period of 5 years or less, that person must have served at least half of their sentence after deductions are made for good time.<sup>84</sup> If a resident is sentenced to a period of more than 5 years, that person must have served at least two thirds of their sentence after deductions are made for good time.<sup>85</sup>

Finally, in order to be approved for SCCP there are a number of behavioral and programmatic considerations. A resident must at have:

- The ability to abide by mandatory conditions and expectations of conduct;
- The ability to abide by expectations related to work, education, or rehabilitation as dictated in the resident's case plan;
- Demonstrated change in behavior toward evident rehabilitation; and
- Examples of personal and service-oriented accomplishments (tutoring, mentoring, service to facility, others).
- A completed review of victim sentiment, conducted by the Department of Corrections (strong oppositional victim sentiment doesn't automatically preclude approval, but it is taken into consideration).

Residents transferred to SCCP are placed in suitable locations, approved by the department, such as a treatment facility, support oriented transitional home (for persons in recovery, or veterans, etc.), housing associated with an employer or educational program, nursing facility or other hospital-type care setting.<sup>86</sup> Similar to probation, a person who is serving the remainder of their sentence outside of a correctional facility while on SCCP are subject to a number of restrictions, that can also include any of the restrictions applicable under probation.<sup>87</sup> A person who violates the conditions of their enrollment in the program can be transferred back to a correctional facility for the remainder of their sentence.

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<sup>81</sup> *Id.*

<sup>82</sup> See Department of Corrections Presentation Slides and Handouts; *see also* 03-201 C.M.R. ch. 27.2 (2022). Accessible at: <https://www.maine.gov/sos/cec/rules/03/chaps03.htm>.

<sup>83</sup> See Appendix D.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> Department of Corrections; *Brief on Supervised Community Confinement* (2022). Appendix J.

<sup>87</sup> *Id.*; *see also* 03-201 C.M.R. ch. 27.2 (2022). Accessible at: <https://www.maine.gov/sos/cec/rules/03/chaps03.htm>.

### III. COMMISSION PROCESS

The commission held five meetings on September 8, October 7, October 14, November 16 and November 29, 2022. All meetings were held in a hybrid (remote and in-person) format. Each meeting of the commission was livestreamed via the Legislature’s streaming service. Members of the commission also visited the Maine State Prison and Women’s Center, facilities run by the Maine Department of Corrections, to hear directly from the people who would be most directly affected by the reestablishment of parole. Those visits are referenced under the summary of the meetings at which they were discussed.

#### A. First Meeting, September 8, 2022<sup>88</sup>

The first meeting of the commission was held on September 8, 2022. The meeting began with commission member introductions and opening remarks. Legislative staff then provided an overview of the enabling legislation (Resolve 2021, chapter 126 in Appendix A), covering the duties, process and timeline for the commission’s work. A brief timeline of parole in Maine was also provided by staff.<sup>89</sup>

During the remainder of the first meeting, the commission focused on the role of parole in a criminal justice system, and received presentations from two speakers. First, the commission heard from Michael Kebede of the American Civil Liberties Union of Maine, who provided a brief history of parole and a synopsis of the political climate that led to the end of parole in Maine. His presentation also discussed constitutional issues related to parole and cited two seminal decisions by the Supreme Judicial Court of Maine<sup>90</sup>, supporting the constitutionality of parole in Maine. Both cases are summarized in Appendix C.

Next, the commission heard from Dr. Arthur Jones, a criminal justice consultant who also served on the commission as the member “with experience in the fields of criminal sentencing or criminology or with experience in administering parole.” Dr. Jones provided the commission with an overview of his career-long experience working in the parole systems of other states, which included 12 years serving on the parole board in New Jersey and 7 years serving on the parole board in Rhode Island. He also provided 13 initial recommendations for the commission to consider while conducting its work, which included how parole should be organized and a list of individuals the commission should hear from. The list of initial recommendations provided by Dr. Jones is available in Appendix E.

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<sup>88</sup> Video archive of the first meeting is available at: [Maine Legislature Video Archive, SH Room 436, 9-8-22.](#)

<sup>89</sup> Handouts provided by staff at each of the commission’s meetings are located in Appendix C.

<sup>90</sup> *Gilbert v. State*, 505 A.2d 1326 (1986); *Bossie v. State*, 488 A.2d 477 (1985).

The commission then held a public comment period during which members of the public were invited to provide input on the prospect of reestablishing parole in Maine. The commission heard from: Randell Brown; Jon Courtney; Catherine Bestemen; Brandon Brown; and Joanna Stokinger.

Topics of discussion at this meeting varied considerably, as members of the commission and members of the public raised several areas of interest, goals, and concerns. Topics discussed at the meeting included, but were not limited to:

- the cost of incarceration for an individual in comparison to that of parole;
- the potential impact on victims if parole is reestablished;
- questions about the role of the Supervised Community Confinement Program;
- the need to understand how Maine’s sentencing works, as well as earned time deductions, such as “good time” are applied; and
- the need to receive testimony from residents of Maine’s correction system, and the potential of holding a meeting of the commission at the Maine State Prison.

## **B. Second Meeting, October 7, 2022<sup>91</sup>**

The second meeting of the commission was held on October 7, 2022. The meeting began with a presentation from the Department of Corrections on the calculation and application of earned time deductions, “good time,” to sentences. The department also provided the commission with an overview of Maine’s Supervised Community Confinement Program. The department’s presentation and accompanying materials are located in Appendix D.

Following that presentation, the commission then heard from a variety of speakers who work doing research and advocacy in the field of victims’ rights. Each speaker provided informative and essential perspectives on how reestablishing parole could be done in a way to involve, protect, and empower victims. Speakers who presented during this portion of the meeting included:

- Francine Stark, Maine Coalition to End Domestic Violence (MCEDV)
- Elizabeth Ward Saxl, Maine Coalition Against Sexual Assault (MECASA)
- Lane Lewis Israeli, George Mason University

These presenters provided a wide array of research and recommendations for the commission to consider in conducting its work including, but not limited to, the following: Lane Lewis Israeli recommended that parole board members should have experience in social work, healthcare,

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<sup>91</sup> Video archive of the second meeting is available at: [Maine Legislature Video Archive, SH 436, 10-7-22.](#)

reentry services, and mental health; the presentation from MECASA stated the importance of protecting victims by creating systems of rehabilitation and recovery support, alongside any reestablishment of parole does not have a detrimental impact on the safety of victims; and the presentation from MCEDV stated the importance of community-based support and programs that prevent violence and support a transformative approach to justice. MECASA's full statement on both policy and recommendations for parole, the report provided by MCEDV, and the presentation provided by Lane Lewis Israeli are available in Appendix E.

Next the commission held a public comment period, during which, the commission heard from: Felicity Farrell; Raz Hilton; and Melissa Lorraine Hill.

Legislative staff also provided a follow up on the commission's previous information requests, which included a summary of court cases relevant to parole in Maine, financial information about parole in Illinois, as a basis of comparison, and a paper titled "Policy Ideas and Comparisons to inform the Maine Parole Working Group" written in march of 2022 by a working group examining parole. These materials are available in Appendix C.

Following the public comment period and responses to information requests the commission discussed its next steps, which included a discussion about what a visit to or tour of the Maine State Prison might look like.

### **C. Third Meeting, October 14, 2022<sup>92</sup>**

The third meeting of the commission was held on October 14, 2022. The focus of this meeting was to review and consider the role of parole in other states and to hear from advocates, scholars and national experts on the matter of reestablishing parole. Speakers who presented during this meeting included:

- Ashley Nellis, The Sentencing Project
- Alice Hamblett, Common Justice
- Aswad Thomas, vice president of the Alliance for Safety and Justice, and national director of Crime Survivors for Safety and Justice
- Frederic Reamer, professor at Rhode Island College, and author of *On the Parole Board*

During these presentations, the commission heard how parole plays a role in the criminal justice system in other states. All of the presenters favored parole and offered expert knowledge and background, as well as personal experience to inform their presentations. Topics covered in the presentations provided to the commission included, but are not limited to: the diminishing benefits of lengthy terms of imprisonment on improvements to public safety; the need for restorative justice to support those who have been harmed including establishing victim support

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<sup>92</sup> Video archive of the third meeting is available at: [Maine Legislature Video Archive, SH 437, 10-14-22.](#)

and alternatives to incarceration while preserving accountability; how parole is a problem-solving model as opposed to a punitive model; and how a lack of support for victims can lead to increased crime. Presentation materials from this meeting are available in Appendix E.

Next the commission held a public comment period, during which, the commission heard from: Sarah Eli; Linda Dolloff; Lani Graham; Doug Dunbar; James Fine; Jan Collins, who read statements on behalf of residents in the Maine State Prison.

Following the public comment period, Richard Harburger, current Chair of the Maine State Parole Board was also available for a question and answer session with the commission. In answering questions from commission members, he noted that he supports the reestablishment of parole in Maine. However, he does not support a parole system that presumes eligibility for all inmates. Instead, he expressed that an incarcerated person must want parole and be responsible for creating and presenting a plan to achieve successful parole to the parole board. Harburger also stated that in order for parole to be successful, it must be properly funded, and noted that funding should include community-based treatment, substance abuse treatment, mental health and other systems of support. He further noted that, if the Legislature reinstated parole as outlined in LD 842, that proposal would require a full-time parole board which would also need funding. Harburger also noted that, in his experience, new criminal offenses committed by a parolee are rarely violent in nature, and more often are technical or non-violent offenses.

Following the question and answer session, the commission discussed its next steps and decided to request submit a request for additional meetings, and a request to attend the monthly meeting of the local chapter of National Association for the Advancement of Colored People (NAACP) at the Maine State Prison.

#### **D. Fourth Meeting, November 16, 2022<sup>93</sup>**

The fourth meeting of the commission was held on November 16, 2022. The focus of this meeting was a preliminary discussion of what would become the commission's findings and recommendations. At the request of the chairs, commission members submitted preliminary findings and recommendations to the legislative staff prior to the meeting. These preliminary submissions were meant to help facilitate the discussion of the commission. The preliminary submissions are available in Appendix F.

Before the commission began its discussion of preliminary findings and recommendations, the commission took time to hear a recap from members who visited the Maine State Prison and Women's Center. Members who visited the facilities emphasized that the experience was impactful and left them with the distinct impression that the culture among the residents was one of love and support, and that the attendance of the commission members provided residents with hope where there was little reason to have it before. Residents told stories of the support that they

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<sup>93</sup> Video archive of the fourth meeting is available at: [Maine Legislature Video Archive, SH 437, 11-16-22.](#)

received, from each other, even from those serving sentences so long that they had no incentive to participate. Those who visited the facilities expressed being moved by the experience and the testimony they received had a fundamental impact on their view of the commission's work.

Next, the commission considered the submissions provided by members prior to the meeting. The commission's discussion covered a wide array of topics but eventually the conversation narrowed down to a set of key issues that the commission felt would be important to include in its final findings and recommendations. The commission's discussion at the fourth meeting covered the following:

- the types of sentences that should be eligible for parole;
- the criteria that should be used to evaluate parole eligibility for those serving longer sentences;
- the process that should be made available for those applying for, granted, and denied parole;
- whether should be applied to the suspended or unsuspended portions of sentences, and how parole would work alongside existing programs like probation and supervised community confinement;
- how victims would be included in the parole process, and how to incorporate support and protection for victims into the parole process;
- the membership and composition of a parole board and the need for the parole board to be independent of the Department of Corrections; and
- whether the goal of expanding pathways to early release can be met by modifying the supervised community confinement program.

The commission did not take any votes at the fourth meeting. At the conclusion of the meeting, the chairs asked that legislative staff compose a set of draft findings and recommendations based on the commission's discussion to help guide the commission's deliberations at its fifth and final meeting. That document is available in Appendix F.

Next the commission held a public comment period, during which, the commission heard from: Arimela Shima; Janet Drew; Sarah Elie; Thomas Gutheil; and commission member Representative Jeffery Evangelos.

#### **E. Fifth Meeting, November 29, 2022<sup>94</sup>**

The fifth meeting of the commission was on November 29th, 2022. This meeting consisted of two primary agenda items. The first was a final public comment period. The second was to determine the final findings and recommendations of the commission.

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<sup>94</sup> Video archive of the fifth meeting is available at: [Maine Legislature Video Archive, SH Room 437, 11-29-22.](#)



During the public comment period the commission heard from: Jeremy Mack, Emily Mooney, Catherine Besteman, Sarah Mattox, David Garlock, Martin Brown and Jan Collins. Following the public comment period, the commission received a final recap from members who attended an additional gathering at the Maine State Prison between the fourth and fifth meetings. Members who attended the gathering stated that it was a historic day, with over 150 residents in attendance, requiring the facility to move the gathering to its gymnasium. One of the most significant takeaways was the extent to which Maine’s prison system has transformed under the current administration, with one commission member noting that it almost felt like being on a college campus, a perception that reminded commission members how the corrections system can be affected by who is in power. Those who attended also emphasized the immense expressions of hope that were delivered during the event, and discussed why providing hope is an essential component to ensuring the effectiveness of the work being done inside Maine’s correctional facilities. Those in attendance heard firsthand the accounts of crimes committed, remorse for the harm caused, and the life’s long work to atone and rehabilitate that has followed for many residents, despite having nothing to gain in-terms of a reduction in time-served. Many commission members expressed feeling stunned that no pathway to early release is available to such exemplary individuals and found that fact to be unacceptable.

Next the commission engaged in a robust discussion of its finding and recommendations. The discussion was based on the proposed findings and recommendations at the fourth meeting. These proposals were compiled into a document by legislative staff, available in Appendix F.

The final findings and recommendations are found in Section IV of this report. Information regarding the substantive discussions, votes, and recommendations is included in that section as well.

#### **IV. FINDINGS AND RECOMMENDATIONS**

The commission was charged with examining “parole as it currently operates in this State and in other States, with a specific focus on the parole law in Colorado, the benefits and drawbacks of parole, different models of parole, how parole fits in with the overall framework of the Maine Criminal Code, the effect of parole on parolees, the costs and savings of instituting parole and the elements of a plan to implement parole.”<sup>95</sup> The commission is required to submit this report, including its findings and recommendations to the Joint Standing Committee on Judiciary.

As previous summarized, the commission met five times in the development of the findings and recommendations. Over the course of these five meetings the commission engaged in substantial discussions, heard from leading experts, and received valuable public testimony covering each of topics outlines in its duties.

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<sup>95</sup> Resolve 2021, ch. 126, sec. 5.

One theme that carried throughout these discussions was the necessity of achieving the appropriate balance between rehabilitating offenders, supporting victims, protecting public safety and designing a mechanism for early release that helps Maine’s corrections system become more fair and just.

### **Findings**

- **Disparities in the racial demographics among those incarcerated in Maine and the general population of the State are staggering.** Racial disparities are clearly represented in the Maine Department of Corrections Year-End Adult Data Reports from 2021 and 2020. Those disparities intersect with racial disparities in sentence lengths that negatively impact equal access to existing programs like the Supervised Community Confinement Program. The disparities in access to the Supervised Community Confinement Program, as compared to the total prison population in Maine, can be seen in the Maine Department of Corrections Monthly Data Reports for the year 2022.
- **Violent crime is ultimately a public health issue and can be cyclical in nature.** Often, the circumstances that lead a person to commit a violent crime create similar circumstances for the victims of that crime, which can contribute to victims committing a violent crime in the future. This is a contributing factor to why a majority of people who are incarcerated are also survivors of violent crimes themselves. It is crucial that the criminal justice system focus on providing both rehabilitation for offenders and support services for victims.
- **The success of any program established to address disparities in the criminal justice system will depend on ensuring adequate resources are available for offenders, victims, and communities to support people in rehabilitation, restorative justice, and to avoid interactions with the criminal justice system in the first place.** Such resources must include, but are not limited to, the right legal representation throughout the programs. In order for the programs to succeed, the Legislature must allocate sufficient funding to support these resources.
- **The success of any program established to address disparities in the criminal justice system will require that the Legislature carefully consider reforms to other components of the criminal justice system, as no singular component stands in isolation.** For example, the Legislature will have to carefully consider reforms to mandatory fines and penalties, mandatory minimum sentences, and criminal sentencing in-general.

### **Recommendations**

The final recommendations of the commission are as follows:

**1. Establish new mechanisms not currently provided for in Maine Law to open pathways for early release of incarcerated persons who no longer pose a threat to public safety. (Vote 11-0)<sup>96</sup>**

The discussion at the commission's fifth and final meeting covered a wide range of issues. The issues discussed at the fifth meeting related not only to parole, but also to sentencing and the criminal justice system as a whole. While not every member supports reestablishing parole, there was unanimous support among members who voted on this recommendation.

Over the course of five meetings, the commission heard numerous stories of exemplary individuals incarcerated in Maine's prison system. Individuals who, despite their hard work and dedication toward rehabilitating themselves, repairing the harm they've done, and strengthening their communities, are provided no further reduction in time served compared to those who do not exhibit the same effort. The mechanisms currently available are not enough. When the most exemplary individuals do not qualify for executive commutation or pardon and when baseline access to programs like Supervised Community Confinement do not account for the work done by those individuals, something more must be provided.

Many commission members believe that currently, Maine's corrections system does not provide effective mechanisms or pathways for early release. As referenced from the accounts of commission members who visited the Maine State Prison and Women's Center, one of the primary messages delivered by residents was the need for hope. Providing mechanisms and pathways for early release that reward the efforts by residents working for positive change creates hope for those facing long sentences and encourages such efforts for those who, due to their lack of hope, may not have otherwise been incentivized. If a goal of the corrections system is rehabilitation, the system must have mechanisms that recognize, reward, and reinforce these efforts.

While the commission as a whole did not identify specific mechanisms for the purposes of this recommendation, a majority of members believe that reestablishing parole, as discussed in recommendation three, is one pathway that is essential for providing early release.

Representative Evangelos also recommended that Maine implement a system of weekend furloughs for residents of correctional facilities. A weekend furlough program would allow, under certain conditions, residents of a correctional facility to be away from the facility for a specified period of time on designated days. Weekend furlough programs are especially beneficial for residents who want to maintain systems of support and connection with children and other family members.

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<sup>96</sup> Support: Sen. Craig Hickman, Rep. Charlotte Warren, Sen. Scott Cyrway, Rep. Bruce Bickford, Rep. Jeffery Evangelos, Joseph Jackson, James Mason, Arthur Jones, Whitney Parrish, Natasha Irving, Commissioner Randall Liberty; Abstain: Laura Yustak, William Stokes.

Representative Bickford offered an additional consideration; that educational programming for residents should include trades programs in addition to college degrees. Providing options for residents to learn a trade would allow residents additional opportunities to achieve productive reintegration with their communities upon release.

**2. Enhance and amend existing mechanisms currently provided for in Maine law to open pathways for the early release of incarcerated persons who no longer pose a threat to public safety. (Vote 11-0)<sup>97</sup>**

Many commission members expressed concerns that existing aspects of the criminal justice system and criminal statutes will need updating to properly function alongside parole. Some members also discussed the potential for pre-existing programs to be modified in order to achieve the goal of providing better pathways for early release in lieu of parole. In particular, some members recommended considering modifications to the Supervised Community Confinement Program that would expand the eligibility criteria for residents to participate in the program. This expansion would apply both to the qualitative criteria for participation in the program and also to when residents may begin participating, ensuring that residents serving longer sentences may participate earlier than what is currently allowed.

As touched upon in the commission's findings, no component of the criminal justice system stands in isolation. Any proposal to reestablish parole must consider how it will function in concert with probation, supervised community confinement, and other programs. It should be noted that some members of the commission feel that when the most exemplary individuals do not qualify for executive clemency, the system as it stands is broken and in need of review.

**3. Provide baseline funding for the Maine Criminal Justice Sentencing Institute. (Vote 13-0)<sup>98</sup>**

The Maine Criminal Justice Sentencing Institute was created in 1976, alongside the establishment of the Criminal Code.<sup>99</sup> Under Title 4, Section 454, the purpose of the Maine Criminal Justice Sentencing Institute is “to provide a 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 Chief Justice of the Supreme Judicial Court may invite.”

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<sup>97</sup> Support: Sen. Craig Hickman, Rep. Charlotte Warren, Sen. Scott Cyrway, Rep. Jeffery Evangelos, Joseph Jackson, James Mason, Arthur Jones, Whitney Parrish, Natasha Irving, Commissioner Randall Liberty, Laura Yustak (who abstained from the original vote but later expressed support for this recommendation after the conclusion of the commission's final meeting)

<sup>98</sup> Support: Sen. Craig Hickman, Rep. Charlotte Warren, Sen. Scott Cyrway, Rep. Bruce Bickford, Rep. Jeffery Evangelos, Joseph Jackson, James Mason, Arthur Jones, Whitney Parrish, Natasha Irving, Commissioner Randall Liberty, Laura Yustak, William Stokes.

<sup>99</sup> 4 M.R.S.A. §454 (1975).

While the institute met every two to three years from the mid 1970's through the 1990's, it appears that it has not met since 2005, over 15 years ago, due to lack of adequate funding.<sup>100</sup> As outlined in Section 454, when sufficient funding is provided by the Legislature “the institute shall meet, at the call of the Chief Justice of the Supreme Judicial Court, 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.”

The commission believes that the Maine Criminal Justice Sentencing Institute is an ideal forum to consider the reforms to criminal sentencing addressed in its findings above. The commission recommends that the Legislature appropriate baseline funding in the biennial budget necessary for the institute to meet every two years and be appropriately staffed. Regular meetings of the institute will be necessary to discuss the multitude of issues addressed over the 5 meetings of this commission, and to ensure that unintended consequences of statutory reforms to the Criminal Code are able to be identified and addressed. Any attempt to address the disparities, discussed in the commissions findings, in the criminal justice system must necessarily consider the relationship to criminal sentencing, and the commission believes that the institute will play an essential role in that those efforts.

The commission further recommends that the Legislature amend the Maine Criminal Justice Sentencing Institute statute to improve the language and syntax of the text for clarity; codify more specifically the institute's processes or procedures, including requirements for public notice, public input. The statute should also be updated to require that the institute provide a biennial report to the Legislature, and to direct the appointment of participants with a broader set of experiences, including those with expertise in sentencing reform and restorative justice.

#### **4. Reestablish parole in Maine. (Vote 7-2)<sup>101</sup>**

As referenced in the discussion related to the commission's first recommendation, a majority of members on the commission recommend that the Legislature reestablish parole in Maine as the primary mechanism for providing a pathway to early release. Much of the commission's discussion regarding legislative proposals to reestablish parole focused on the work done by the Judiciary Committee in the 130<sup>th</sup> Legislature in its consideration of LD 842 (Appendix J). That bill would have made all criminal sentences for imprisonment eligible for parole, an element of reestablishing parole that is a primary concern for many commission members. The commission

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<sup>100</sup> Staff worked with the Law and Legislative Reference Library and the Maine Judicial Branch to locate records of the institute's activities. The most recent record of the institute meeting identified by staff is from 2005. While it is possible that the institute has met since, no more recent records have been identified. Records identified by staff are located in Appendix H.

<sup>101</sup> Support: Sen. Craig Hickman, Rep. Charlotte Warren, Rep. Jeffery Evangelos, Joseph Jackson, James Mason, Arthur Jones, Whitney Parrish; Oppose: Commissioner Randall Liberty, Sen. Cyrway; Abstain: Laura Yustak, William Stokes, Natasha Irving.

recommends that the Legislature build on the work that was done in the 130<sup>th</sup> Legislature and use LD 842 and all of its accompanying papers as a starting point putting together a bill to reestablish parole.

During the commission’s discussion about reestablishing parole, some commission members expressed concern about making parole available to all sentences and suggested that the Legislature carefully consider whether to exclude certain types of sentences, such as repeat offenders in cases domestic violence and repeat offenders in cases of child sexual abuse and exploitation. The discussion regarding who decides which sentences are eligible for parole touched on a few different models. Some commission members expressed a strong preference that all eligibility be determined by the Legislature, while others suggested that the sentencing judge should have some ability to decide in certain cases.

Following the public comment period at the commission’s third meeting, Richard Harburger, current Chair of the Maine State Parole Board was also available for a question and answer session with the commission. In answering questions from commission members, Harburger noted that he supports the reestablishment of parole in Maine. Regarding the question of eligibility for parole, he stated that an incarcerated person must want parole and be responsible for creating and presenting their plan to achieve successful parole to the parole board. His comments are described in further detail in Section III, Part C of the report.

In voting against the recommendation to reestablish parole, Commissioner Liberty and Senator Cyrway expressed concerns that parole would not be consistent with “truth in sentencing,”<sup>102</sup> and that Maine already has a workable program that can be adjusted to achieve the goal of providing a better mechanism for expanding pathways to early release. They noted that this can be done without having to create a new system, setup and staff a new agency, or secure the kind of funding that would be necessary if the State reestablished parole.

**5. Ensure that any proposal to reestablish parole in Maine includes clear criteria for eligibility, process transparency, and increased support for victims. (Vote 8-2)<sup>103</sup>**

First, the Legislature must establish criteria that ensures parole is available to incarcerated people serving sentences of more than 20 years. This recommendation remains key to effectively addressing the disparate demographics identified in the findings of this report and providing hope to those serving long sentences. The criteria used to determine hearing eligibility and for granting and denying parole must consider and mitigate the historical bias present in traditional

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<sup>102</sup> The term “truth in sentencing,” refers generally to the principal that offenders should serve a substantial portion of their imposed sentence in a correctional facility, so that the sentence accurately reflects the amount of time a person will serve.

<sup>103</sup> Support: Sen. Craig Hickman, Rep. Charlotte Warren, Rep. Jeffery Evangelos, Joseph Jackson, James Mason, Arthur Jones, Whitney Parrish, Natasha Irving; Oppose: Commissioner Liberty, Sen. Cyrway; Abstain: Laura Yustak, William Stokes.

risk assessment models. For incarcerated people suffering from diagnosed mental illness, the criteria must include metrics based upon the progress of their treatment.

Additionally, calculations which determine when a person is eligible for a parole hearing should be based solely upon the unsuspended portion of that person's sentence. For example, if a person is sentenced to 20 years unsuspended and 20 years suspended, for a total sentence of 40 years, that person's eligibility for a parole hearing would be calculated on the time that remains on only the unsuspended portion of that person's sentence.

Second, the Legislature must create transparent and fair parole hearing, review, and appeals processes conducted by a parole board independent of the Maine Department of Corrections. The membership of the board must, to the extent practicable, reflect the diversity of the State, including, but not limited to, diversity in geographic location, cultural and ethnic background, sexual orientation, gender identity and professional experience. Board members should also be appointed by the Governor to staggered terms subject to confirmation by the Senate. An amendment to LD 842 from the First Regular Session of the 130th Legislature (Appendix J) provides a starting point for establishing a board. Members of this commission also put forward their own recommendations for the makeup of the parole board, which can be found in Appendix F.

The commission feels it is vitally important to emphasize that the hearing, review, and appeals process for parole must be clearly outlined in the establishing legislation, and that each applicant for parole must have the right to legal representation throughout the process. A clearly outlined process and legal representation throughout that process can significantly affect whether or not a person is able to successfully navigate the system. If the steps in the process are not clear, or if no right to legal representation is guaranteed, those expected to adhere to the process will be setup for failure.

Third, the Legislature must ensure that victims have a right to be notified of, involved in, and provided support throughout, any parole hearing, review, or appeals process. The commission received comprehensive presentations during its second meeting from organizations that work in the field of victims' rights (Appendix E).<sup>104</sup> The Maine Coalition Against Sexual Assault, Maine Coalition Against Domestic Violence, and Aswad Thomas, of both Alliance for Safety and Justice and Crime Survivors for Safety and Justice, outlined policy considerations that the commission feels are absolutely essential to include in any legislative proposal to reestablish parole. Additionally, the commission feels it is essential that any proposal to reestablish parole

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<sup>104</sup> Recordings of these presentations can be accessed via the Legislature's video platform. The presentations were provided during the commission's second and third meetings, which can be accessed at the following links: [Maine Legislature Video Archive, State House Room 436, 10-7-22](#); [Maine Legislature Video Archive, State House Room 437, 10-14-22](#).

include resources for victim advocate staffing necessary for post-conviction support, to ensure victim safety, and prevent their re-traumatization.

#### **6. Establish a new Criminal Law Revision Commission. (Vote 6-1)<sup>105</sup>**

One through-line in the commission's discussions, and in the testimony received by the commission over the course of its five meetings, has been the consequences and discontinuity created within the Criminal Code in the nearly 50 years since its enactment in 1976. Maine's Criminal Code was enacted during a particular period in our nation's history, and coincided with a movement toward a particular theory of crime and punishment. As described in the background section of this report, Maine was the first state in the nation to abolish parole. With the abolition of parole, Maine completely reformed its criminal statutes and sentencing model. The commentary and analysis that ensued in the years following that reform speak directly to the consequences that developed.

As it did in 1971, the Maine Legislature should again establish a criminal law revision commission to: address the consequences of a criminal code designed to be punitive; reform the code to create internal continuity in its theory of corrections; and incorporate within the code the rehabilitative and restorative justice principles validated by modern research and supported by policy makers across the political spectrum. Members of the new criminal law revision commission should include practitioners of criminal law from both within and outside of state government and must, to the extent practicable, be comprised of members who reflect the diversity of the State, including, but not limited to, diversity in geographic location, cultural and ethnic background, sexual orientation, gender identity and professional experience.

## **V. CONCLUSION**

The commission recognizes that the findings and recommendations in this report cover multiple aspects of the criminal justice system. The reforms necessary to address the commission's findings will extend beyond providing expanded pathways for early release, and the recommendations provided by the commission will not address every aspect of the criminal justice system in need of reform. The work conducted by this commission focused primarily on issues surrounding the reestablishment of parole, but parole is only one piece of a much larger conversation that will require continual attention. The work of this commission is a beginning, not an end. The commission urges the Legislature to continue this work, as it is crucial to ensuring a society that is just, fair, and safe.

Finally, the commission would like to thank all of the presenters and members of the public for generously offering their time, expertise, and advice on the issues involved in the examination of

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<sup>105</sup> Support: Sen. Craig Hickman, Rep. Charlotte Warren, Rep. Jeffery Evangelos, James Mason, Arthur Jones, Whitney Parrish; Oppose: Sen. Scott Cyrway; Abstain: Laura Yustak.



reestablishing parole in this State. Their knowledge and perspectives were invaluable to the commission as it endeavored to develop recommendations on these challenging and complex, but also critical issues. The commission also would like to thank staff for their time and dedication to the commission's work.

## **APPENDIX A**

**Authorizing Legislation: Resolve 2021, chapter 126**

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

H.P. 610 - L.D. 842

**Resolve, To Create the Commission To Examine Reestablishing Parole**

**Sec. 1. Commission established. Resolved:** That the Commission To Examine Reestablishing Parole, referred to in this resolve as "the commission," is established.

**Sec. 2. Commission membership. Resolved:** That the commission consists of 13 members as follows:

1. Two members of the Senate appointed by the President of the Senate, including one member from each of the 2 parties holding the largest number of seats in the Legislature;
2. Three members of the House of Representatives appointed by the Speaker of the House, including at least one member from each of the 2 parties holding the largest number of seats in the Legislature;
3. The Commissioner of Corrections or the commissioner's designee;
4. The Attorney General or the Attorney General's designee;
5. A district attorney, designated by an association representing prosecutors in the State;
6. A representative of an organization advocating for the interests of people who are incarcerated, appointed by the President of the Senate;
7. A member with experience in the fields of criminal sentencing or criminology or with experience in administering parole, appointed by the Speaker of the House;
8. A member who is an expert in criminal procedure, appointed by the President of the Senate;
9. A representative of an organization advocating for the interests of racial minorities, appointed by the Speaker of the House; and
10. An active or retired judge or justice, designated by the Chief Justice of the Supreme Judicial Court.

**Sec. 3. Chairs. Resolved:** That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

**Sec. 4. Appointments; convening of commission. Resolved:** That all appointments must be made no later than 120 days following the adjournment of the Second Regular Session of the 130th Legislature. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 120 days or more after the adjournment of the Second Regular Session of the 130th Legislature a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

**Sec. 5. Duties. Resolved:** That the commission shall examine parole as it currently operates in this State and in other states, with a specific focus on the parole law in Colorado, the benefits and drawbacks of parole, different models of parole, how parole fits in with the overall framework of the Maine Criminal Code, the effect of parole on parolees, the costs and savings of instituting parole and the elements of a plan to implement parole.

**Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide necessary staffing services to the commission, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session.

**Sec. 7. Consultants. Resolved:** That the commission may request that individuals with specific expertise in parole and the logistics of parole systems, including but not limited to the current members of the Department of Corrections, State Parole Board, serve as consultants to the commission.

**Sec. 8. Report. Resolved:** That, notwithstanding Joint Rule 353, no later than December 1, 2022, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Judiciary. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the recommendations of the commission to the First Regular Session of the 131st Legislature.

## **APPENDIX B**

### **Membership list, Commission to Examine Reestablishing Parole**

## Commission to Examine Reestablishing Parole

### Resolve 2021, chapter 126

#### Membership List

<b>Name</b>	<b>Representation</b>
Sen. Craig Hickman – Chair	Member of the Senate, appointed by the President of the Senate
Rep. Charlotte Warren – Chair	Member of the House, appointed by the Speaker of the House of Representatives
Sen. Scott Cyrway	Member of the Senate, appointed by the President of the Senate
Rep. Bruce Bickford	Member of the House, appointed by the Speaker of the House of Representatives
Rep. Jeffrey Evangelos	Member of the House, appointed by the Speaker of the House of Representatives
Joseph Jackson	Representative of an organization advocating for the interests of people who are incarcerated
James Mason	Member who is an expert in criminal procedure
Arthur Jones	Member with experience in the fields of criminal sentencing or criminology or with experience in administering parole
Whitney Parrish	Representative of an organization advocating for the interests of racial minorities
Honorable William Stokes	Active or retired judge or justice
Laura Yustak	Attorney General or Attorney General's designee
Natasha Irving	A district attorney, designated by an association representing prosecutors in the State
Commissioner Randall Liberty	Commissioner of Corrections or the Commissioner's designee

**APPENDIX C**  
**OPLA Handouts & Meeting Agendas**

**To:** Commission to Examine Reestablishing Parole  
**From:** Legislative Staff  
**Date:** September 8, 2022  
**Re: Timeline of Parole in Maine**

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In 1913 the Maine Legislature passed Public Law 1913, Chapter 60, establishing parole, the State's first parole board, and replacing the State's "definite" sentencing system with what has now become known as "indeterminate" sentencing.<sup>1</sup> For those receiving and serving sentences, this change meant receiving a baseline sentence defined by a range between a minimum and a maximum number of years to serve, rather than a single baseline number of years.

At the time, the statutory minimum for sentences of more than two years was one-half of the sentence maximum (a 10 year maximum would have a 5 year minimum) and the statutory minimum for sentence of less than two years was set at one year (a 1.5 year maximum would have a 1 year minimum).

With the exception of those who had been convicted of two prior felonies, all inmates (the term used at the time) were eligible for parole after serving their minimum sentence, as adjusted for "good-time."<sup>2</sup> Parole was also not available to those serving life sentences.

As it was established at the time, that system worked in the following way:

1. During the sentencing stage the judge, if having decided incarceration was warranted, set a minimum and maximum term of confinement.
2. Once a person had served their minimum sentence, as adjusted for good-time credits, they would become eligible for review by the parole board.<sup>3</sup>
3. If, upon review of a person's application for parole, it was determined that parole was appropriate, the parolee would be released under the expectation of compliance with a number of conditions.<sup>4</sup>

A person released on parole was considered to still be serving their sentence and remained "in the legal custody and under the control of the warden or superintendent of the prison from which he is paroled and shall be subject at any time to be taken back within the enclosure of said prison for any reason that may be satisfactory to the warden or superintendent."<sup>5</sup>

Despite undergoing many modifications, the basic structure of parole in Maine remained the same through the recodification that resulted in the creation of MRS Title 34, in 1965.<sup>6</sup> By that time numerous provisions had been added to the structure of parole in Maine, including the provision of parole for

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<sup>1</sup> This coincided with the creation of the State Board of Charities and Corrections, which became Department of Public Welfare and the Bureau of Institutional Services in 1931, then the Department of Institutional Services in 1939, and then the Department of Mental Health and Corrections in 1959. The Bureau of Corrections was created in 1967, and it was not until 1981 that the Legislature created the Department of Corrections. See Maine State Archives webpage.

<sup>2</sup> "Good time" is the practice of reducing the number of days a person is required to serve by meeting certain conditions, like good behavior or participation in rehabilitation programs.

<sup>3</sup> For certain cases the authority to grant parole was conferred exclusively on the Governor. See Section 6 of Public Law 1913, Chapter 60.

<sup>4</sup> See sections 7-14 of Public Law 1913, Chapter 60.

<sup>5</sup> Public Law 1913, Chapter 60, section 9.

<sup>6</sup> However, the parole statutes are now located in Title 34-A, Chapter 5.



certain life sentences.<sup>7</sup> The Legislature had also distinguished parole from the Governor’s pardon and commutation power in statute,<sup>8</sup> and further outlined the parameters of how parole functioned.<sup>9</sup>

In 1971, Maine’s 104th Legislature passed an "Act to Create a Commission to Prepare a Revision of the Criminal Laws" (Private and Special Law 1971, Chapter 147). The Commission completed its work in 1975, a time during which there was a nationwide movement toward determinate sentencing.<sup>10</sup> The commission’s work eventually lead to the establishment of the criminal code in 1975 (Public Law 1975, Chapter 499),<sup>11</sup> which included a requirement that persons sentenced to imprisonment be confined for a definite period of time, rather than an indeterminate period. The preamble of the bill stated that release “will no longer depend on parole board decisions but on the willingness of the prisoner to earn the “good time” deductions authorized by law.”<sup>12</sup>

This marked the end of parole in Maine for sentences issued after the effective date of that law. Parole remains for those sentenced prior to 1976,<sup>13</sup> it is governed by the provisions of Title 34-A, Chapter 5 and administered through the State Parole Board Rules and Policy (accessible on the bottom of the page at [this link](#)).

Since 1976 and prior to the consideration of LD 842, the bill that ultimately created this commission, there have been a number of proposals to reinstate or change parole in various ways including, but not limited to, the following:

Legislature	LD Number	Title
115 <sup>th</sup>	2224	An Act to Reinstate a System of Parole
116 <sup>th</sup>	901	An Act to Reinstate a System of Parole
119 <sup>th</sup>	2531	An Act to Institute a System of Parole for Certain Maine Criminal Code Prisoners
125 <sup>th</sup>	1500	An Act To Establish Positive Reentry Parole
126 <sup>th</sup>	873	An Act To Establish Positive Reentry Parole

There have also been a number of court cases relevant to parole in Maine including, but not limited to, the following:

- **Gilbert v. State**, 505 A.2d 1326 (Me.1986)
- **Bossie v. State**, 488 A.2d 477 (Me.1985)
- **Mottram v. State**, 232 A.2d 809 (Me.1967)
- **Collins v. State**, 161 Me. 445 (Me.1965)
- **Lewis v. Robbins**, 150 Me.121 (Me.1954)
- **Ex parte Mullen**, 146 Me.191 (Me.1951)
- **Smith v. Lovell**, 146 Me.63 (Me.1950)

<sup>7</sup> See page 629 in document titled: “Title 34 as of 1965 Recodification.”

<sup>8</sup> See page 617 in document titled: “Title 34 as of 1965 Recodification.”

<sup>9</sup> See Subchapter V, beginning on page 628 in document titled: “Title 34 as of 1965 Recodification.”

<sup>10</sup> Maine Rejects Indeterminacy: A Case Study of Flat Sentencing and Parole Abolition – Final Report, 1983, Page 20.

<sup>11</sup> See also, <https://www.maine.gov/legis/lawlib/lldl/criminalcode/index.html>.

<sup>12</sup> Preamble to LD 314 from 1975.

<sup>13</sup> MRSA Title 34-A, section 5801.

**To:** Commission to Examine Reestablishing Parole  
**From:** Legislative Staff  
**Date:** October 7, 2022  
**Re: Information Requests**

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### **Historical Budget Information Related to Parole**

In the 46 years since the elimination of parole in Maine a great deal has changed in the organization and administration of parole that makes it difficult to track down budgetary information. This is further amplified if we look back 109 years to 1913, when parole was first established. In 1957, the Department of Institutional Service became the Department of Mental Health and Corrections. The Division of Probation and Parole was created in 1967, bringing many of the administrative and budgetary resources under one agency. The Department of Corrections was not created until 1981, five years after parole was eliminated. The Parole Board was put under the Department of Corrections in 1983, when the Legislature enacted [Title 34-A, section 5201](#).

Attached to this document (Appendix I) is a compilation of budgetary excerpts from the *Maine State Government Annual Reports* for the Parole Board and the Division of Probation and Parole. Rather than provide almost 50 years of budgets, we've started with 1975, 1976, 1983, 1990, 2000, 2010, and 2020, and also included a similar budgetary report from 1973-1974. This should provide a budgetary record of the years leading up to, and immediately following, the elimination of parole, while also providing a general sense of how the budgets changed in the decades that followed. We are happy to pull budgets from additional years, at your request.

### **When did life sentences first become eligible for parole in Maine?**

The original legislation establishing parole in Maine, [Public Law 1913, Chapter 60](#), explicitly excluded persons “convicted of an offense the only punishment for which prescribed by law is imprisonment for life” from eligibility for parole.<sup>1</sup> The provision creating that exclusion remained until the Ninety-sixth Legislature passed [Public Law 1953, Chapter 382](#), which explicitly made parole available for persons convicted of those offenses.

By the time of the 1965 recodification ([see Title 34 as of 1965 Recodification](#)), the Legislature had included additional provisions regarding parole for life sentences. Under §1672, sub-§3, a person serving a life sentence would only become eligible for a hearing by the parole board after serving 30 years of imprisonment, less deductions for good behavior. Under §1678, the parole board was prohibited from discharging a parolee convicted of a life sentence until that person had been on parole for at least 10 years.

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<sup>1</sup> Public Law 1913, Chapter 60, Section 3.

Immediately prior to the 1976 enactment of the Criminal Code, and the elimination of parole in Maine, the minimum time served for a person serving a life sentence to be eligible for a hearing by the parole board had been reduced from 30 years to 15 years.<sup>2</sup>

Currently, for those convicted prior to the enactment of the Criminal Code in 1976, the relevant provisions are located in Title 34-A, Chapter 5. Under §5803, sub-§3, a person serving a life sentence only becomes eligible for a hearing by the parole board after serving 15 years of imprisonment, less deductions for good behavior. Under §5809, the parole board is prohibited from discharging a parolee convicted of a life sentence until that person has been on parole for at least 10 years.

### **Can people incarcerated in Maine vote?**

Maine is one of only three jurisdictions within the United States where people do not lose the right to vote while incarcerated. The other two jurisdictions are the State of Vermont and the District of Columbia.<sup>3</sup> For more information, see the Secretary of State's Maine Voting Residence Fact Sheet and Title 21-A, §112.

### **Information regarding parole in Colorado**

Discretionary parole release was abolished in Colorado in 1979, but reestablished in 1985 in legislation that doubled the maximum authorized sentences for most felonies. In 1993, House Bill 93-1302 created mandatory parole for all inmates released from prison who committed a crime on or after July 1, 1993. Colorado's current parole statutes are available at this link.

For information regarding the Colorado Parole Board's policies and procedures, see the resources available at this link. For reference materials regarding the Colorado Parole Board budgets, decisions, and regulatory agenda, see the resources available at this link.

At the first commission meeting, information was requested regarding the recidivism rates in Colorado, separated between those who have been on parole and those who have not. We are still working to get information responsive to this request.

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<sup>2</sup> Based on the MRSA Volume 15, 1973 Supplementary Pamphlet. The 1974 Supplementary Pamphlet, does not include these sections. The 1975 Supplementary Pamphlet shows the sections as repealed.

<sup>3</sup> See article from the National Conference of State Legislatures: <https://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>

## Additional Resources

- Maine's current parole board is established under [Title 34-A, Chapter 5](#). You can also review the board's rules, policies, and procedures on the bottom of the page [at this link](#).
- The National Conference of State Legislatures (NCSL) has two useful interactive tools that might be helpful in understanding the differences among the 50 states: (1) [Database of Statutes Defining Probation and Parole Violations](#); (2) [Database of Incarceration Caps for Technical Violations of Supervision](#).
- The National Conference of State Legislatures has also produced a number of articles and reports related to the topics of parole, community supervision, probation, and sentencing.
  - [NSCL Community Supervision Resources](#)
  - [Community Supervision Significant Enactment Database](#)
  - [Community Supervision Reports](#)
  - [Tailoring Conditions of Supervision](#)
  - [Limiting Incarceration in Response to Technical Violations](#)
  - [Principles of Effective State Sentencing and Corrections Policy](#)
  - [Making Sense of Sentencing: State Systems and Policies \(2015\)](#)
  - [Probation and Parole Violations: State Responses \(2008\)](#)
- The University of Minnesota, Robina Institute of Criminal Law and Criminal Justice, has also produced a number of reports related to parole, including a State report on Maine's prison release discretion and population size.
  - [State Report: Maine – Prison Release Discretion and Prison Population Size \(2021\)](#)
  - [Modernizing Parole Statutes: Guidance from Evidence-Based Practice \(2018\)](#)
  - [Profiles in Parole Release and Revocation: Examining the Legal Framework in the United States](#)
  - [In Depth: Sentencing Guidelines and Discretionary Parole Release](#)
- PEW Charitable Trusts has also produced two reports related to state prison healthcare spending and data regarding community supervision programs in the United States.
  - [State Prison Healthcare Spending \(2014\)](#)
  - [Probation and Parole Systems Marked by High Stakes, Missed Opportunities \(2018\)](#)
- The United States, Department of Justice, Bureau of Justice Statistics released a report in 2020, reviewing figures between 2008 and 2018: [Probation and Parole in the United States, 2017-2018](#)

- There have also been a number of resources submitted to the commission by interested parties, linked below:

- [Prison Policy Initiative, Maine Profile](#)
- [2022: National Alliance for Justice and Safety: Crime Survivors Speak Report](#)
- [2016: National Alliance for Justice and Safety: Crime Survivors Speak Report](#)
- [Maine Center for Economic Policy & ACLU Maine – A Better Path for Maine: The Case for Decriminalizing Drugs](#)
- [The Sentencing Project: How Many People Are Spending Over a Decade in Prison](#)

**To:** Commission to Examine Reestablishing Parole  
**From:** Legislative Staff  
**Date:** October 7, 2022  
**Re: Case Summaries**

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**Gilbert v. State**, 505 A.2d 1326 (Me.1986)

Gilbert, a man serving a life sentence, sued the State for denying him parole. The lower court held that Gilbert could not be granted parole because applying changes to his sentence, based on statutory changes that were enacted following his conviction, would infringe upon the Governor's commutation power. On appeal the Law Court held that parole is not unconstitutional because parole "...does not shorten the length of a sentence. Instead, parole is a change in the *manner* in which a sentence is served in that the parolee remains under the custody of the institution from which he is released but executes the unexpired portion of his sentence outside of confinement."<sup>1</sup> However, the court also held that the changes in statute, which provided that the parole board could grant full discharge to a prisoner after he successfully served ten years of parole, were unconstitutional because the discharge would infringe upon the Governor's commutation power.

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**Bossie v. State**, 488 A.2d 477 (Me.1985)

Three people incarcerated by the Department of Corrections sued the State for an alleged miscalculation of the amount of "good time" reduced from their sentences. The Law Court denied their request for relief and held that, because the statute allowing for the "good time" deductions was passed after the dates on which the people had been sentenced, applying those deductions to their sentences would infringe on the Governor's exclusive power to commute sentences. The court stated that the constitutionality of the law turned on whether it allowed anyone but the Governor to reduce the length of a sentence.

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**Mottram v. State**, 232 A.2d 809 (Me.1967)

Mottram had been out of prison on parole and was subsequently brought in front of the parole board for a hearing. During the hearing the parole board determined that he had violated the conditions of his parole and returned him to prison. Mottram then brought a claim raising two issues. First, that his constitutional due process rights had

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<sup>1</sup> *Id.* at 1328.

been violated due to lack of notice and lack of proper hearing. Second, that his rights under Maine law had been violated because, at his parole hearing, he was not given a list of charges against him or allowed to present witnesses. The Law Court held that he had no constitutional or statutory right to either. When addressing the due process issue the court held "A parolee has no constitutional right to a hearing on revocation of parole, and such a revocation without notice and hearing does not constitute a denial of constitutional due process."<sup>2</sup> Then, when looking at the statutory issue, the court stated that the legislature can grant the Parole Board the exclusive right to determine if parole shall be revoked and any such revocation by the Parole Board, made within limits of legislative authority, cannot be undermined.<sup>3</sup> The court stated that the revocation of parole is an administrative rather than "quasi-court" function. The court concluded that the hearing Mottram was provided by the parole board was sufficient to satisfy the relevant statutory requirements.

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**Collins v. State, 161 Me. 445 (Me.1965)**

Collins was released on parole and arrested several days later for a new crime. His parole was then revoked. The main issue raised in this case was one of statutory interpretation. The Law Court examined whether the word "may," in a then existing statute, required the Parole Board to take custody of a person who violated parole immediately. The court found that it did.

In addition to this statutory issue, and more relevant to the examination of parole, Collin's raised that his parole revocation and remand order was invalid, and that due to the errors in that order he should be released. Specifically, that the order did not state the date of revocation, failed to state the remaining term of confinement, and did not state when he would become eligible for parole again. The Law Court found no legal errors in the Parole Board's process and denied his claim. However, the court commented that such information was relevant to the calculation of good time, and therefore pertinent. In its reasoning, the court stated that parole and its execution is discretionary and delegated to the Parole Board by the Legislature. The court also noted that "while on parole the individual is executing, out of confinement, his original sentence."<sup>4</sup> The court further explained that release on parole is conditional, and the parolee is subject both to the continuing supervision of his parole officer and to the threat of return to prison to serve out his sentence there if he violates a condition of parole.

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<sup>2</sup> *Id.* at 813.

<sup>3</sup> *Mottram* A.2d 809 quoting *State v. Fazzano*, 1963, 96 R.I. 472, 194 A.2d 680

<sup>4</sup> *Id.* at 451.

**To:** Commission to Examine Reestablishing Parole  
**From:** Legislative Staff  
**Date:** October 14, 2022  
**Re: Information Requests**

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**Additional Links to Helpful Resources**

- [Maine Crime Victim Rights Law Guide, Victim Witness Advocate Coordinator Pilot Program Office of the Maine Attorney General \(2021\)](#)
- [Maine Victims' Rights Statute, Title 17-A, Chapter 75](#)
- [National Crime Victim Law Institute, Victims' Rights Jurisdiction Profiles \(2020\), United States Department of Justice, Office of Justice Programs](#)
- [Maine Department of Corrections, Reports and Statistical Data](#)
- Links Provided by Aswad Thomas:
  - [ASJ Crime Survivors Speak Report \(2022\)](#)
  - [ASJ Scaling Safety Report](#)
  - [Trauma Recovery Center Model](#)
- Links Provided by Frederic Reamer:
  - [Caseload Standards for Probation and Parole \(2006\)](#)
  - [50 State Report on Public Safety](#)



## DOC Responses to Information Requests from 10-7-22

- **All SCCP data for 2022, broken down by length of sentences and demographics (race, age, gender, etc.)**

DOC is working to retrieve this information.

- **Recidivism rates for those that completed SCCP vs did not participate in SCCP. Including information on how recidivism rates are calculated (what qualifies as recidivism?)**

See [this link](#) for the MDOC's return to custody reports

See also, attached report titled, *Monthly Update for SCCP September 2022*.

- **Particulars of SCCP:**

- **Where are participants employed, how much are they earning, what do they pay in taxes?**

Residents involved with SCCP are employed with various employers throughout the state. There is no one special employer. Wages are between individual and the employer.

- **What are the specific housing requirements? Who pays for the housing?**

Housing requirements are outlined in the SCCP policy (attached). Resident pays for housing.

- **What is available to participants for educational, licensing, or vocational programs? (how does this compare/contrast to what's available to residents of the prison who are not in SCCP?)**

Generally, someone on SCCP has access to whatever is available in the community.

- **What is available to participants for medical care?**

Generally, someone on SCCP has access to whatever is available in the community.

- **Are there any sentences for which SCCP participation is not available?**

Life sentences.

- **How often do SCCP participants have to report to their supervising officers?**

It depends on the risk level of the individual. Typically, at the beginning of SCCP the individual has more reporting and this decreases as the SCCP continues without issues or concerns.

- **Are victims involved in the SCCP review process in any way?**

Yes, the MDOC's Office of Victim Services reviews the application, provides any pertinent feedback from the victim. Victims are also notified if SCCP is granted. If necessary the probation office may continue contact with victim.

- **Demographic data on incarceration rates in Maine, broken down by race, gender identity, age, length of stay, and access to community supervision**

The attached report titled, *September 2022 Monthly Adult Data Report* has most of this info.

- **How many people who are residents of a DOC facility are recorded as, or identify as, survivors of domestic violence?**

Department does not have this information.

### **DHHS Responses to Information Requests from 10-7-22**

- **How much money does DHHS spend per year on victims and survivors of domestic violence that are in child protective services?**

OCFS contracts with the Maine Coalition to End Domestic Violence (MCEDV) and United Somali Women of Maine for domestic violence services. These are much broader than child welfare.

The contract amounts are:

- MCEDV: \$17,156,691 (GF: \$4,894,648; Fed: \$11,183,325; ARPA: \$1,078,718)
- USW of Maine: \$690,216 (GF: \$157,500; Fed: \$445,000; ARPA: \$87,716) – Note that this contract is for both DV and Sexual Assault support services.

The contracts do not align perfectly with SFYs (they begin 10/1), but the contracts are for two years.

An assessment of how much funding in child welfare is directly or indirectly related to domestic violence would require a case-by-case analysis of the thousands of cases involved with the Department. Unfortunately, this is nearly impossible. Additionally, rarely are child welfare cases related to one contributing factor. In almost all cases, there are multiple contributing factors so identifying how much of a case expenditure was related to one factor alone would not be possible

**To:** Commission to Examine Reestablishing Parole  
**From:** Legislative Staff  
**Date:** November 16, 2022  
**Re: Fourth Meeting - Discussion of Findings and Recommendations**

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Attached to this memo are a number of documents designed to facilitate the commission's discussion. The first is a compilation of preliminary findings, recommendations, and considerations submitted by commission members. The submissions in this document are separated by category but have not been edited. The second document is a compilation of all the responses we received. Third is the establishing legislation for this commission. Fourth is an example of how recommendations can be represented in a report.

### **Document 1: Preliminary Findings, Recommendations, and Considerations**

The categories in the document of preliminary findings, recommendations, and considerations to help the commission work through the subject matter in an organized fashion. These are not the only topics that could be discussed, but an attempt to facilitate discussion. Many recommendations touch on more than one category, and were placed in the one that seemed the most directly relevant. The categories provided are as follows:

- **Type of Parole System: Presumptive, Discretionary, or Other**
- **Changes or Additions to Current Programs**
- **When/how Parole is Applied and Eligibility Calculated**
- **Process for Hearings, Denials, Re-Hearings, and Violations**
- **Requirements Related to Supervision**
- **Composition and Location of Parole Board**
- **Services for Convicted Persons**
- **Services and Protections for Victims**
- **Restorative Justice Processes**
- **Funding and Resources**
- **Miscellaneous and Additional Considerations**

### **Considerations for Compiling the Final Findings and Recommendations**

There are a number of ways a study commission can represent findings and recommendations in its final report. Findings and recommendations can be made into separate sections or integrated as one. Typically, only findings and recommendations that receive a majority vote of the commission are represented in the body of the report. However, some study commissions have chosen to include a summary of all findings and recommendations discussed as an appendix to the report. Attached to this memo is an example of findings and recommendations from the Commission to Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions, which serves as a helpful example of a report dealing with complex and intertwined subject matter.

### **Directive of Establishing Legislation**

**Sec. 5. Duties. Resolved:** That the commission shall examine parole as it currently operates in this State and in other states, with a specific focus on the parole law in Colorado, the benefits and drawbacks of parole, different models of parole, how parole fits in with the overall framework of the Maine Criminal Code, the effect of parole on parolees, the costs and savings of instituting parole and the elements of a plan to implement parole.

A copy of LD 842 is attached.

## **General Report Outline**

### **I. Introduction:**

Describes the commission, the establishing legislation, and provides top-line summary of findings and recommendations.

### **II. Background Information:**

History of parole in Maine, establishment of criminal code, summary of current system in Maine.

### **III. Commission Process:**

Summary of meetings, presentations, and activities of commission.

### **IV. Findings and Recommendations:**

Summary of findings, recommendations, and relevant contextual information from the discussions and votes of the commission.

### **V. Conclusion:**

General summary of report.

### **VI. Appendices:**

Will include all materials referenced in the report.

First Meeting

## COMMISSION TO EXAMINE REESTABLISHING PAROLE

(Resolve 2021, Chapter 126)

Thursday, September 8th, 2022

1:00 pm

State House, Room 436 (CJPS Committee Room)  
Hybrid Meeting (In-person and Remote Participation Available)

### AGENDA

- I. **Commission Member Introductions**
  - II. **OPLA Introduction and Overview**
  - III. **Review of Establishing Legislation and Parole Timeline Handout**
  - IV. **Presentations On the Background and History of Parole**
    - i. Dr. Arthur C. Jones, Criminal Justice Consultant
    - ii. Michael Kebede, American Civil Liberties Union, Maine
- \*\*Additional presenters may be arranged prior to the meeting, if that happens the agenda will be updated and redistributed as soon as possible.*
- V. **Public Comment**
  - VI. **Next Steps**

### PLEASE READ

This meeting will be held in the State House, Room 436, the Criminal Justice and Public Safety Committee Room. However, remote participation will be available for commission members and speakers over Zoom. Members of the public can attend the meeting either in-person or remotely over the Legislature's streaming platform [at this link](#).

For members of the public who would like to participate in the public comment portion of the meeting remotely, please use the Zoom link that will be provided to the interested parties list prior to the meeting date.

Second Meeting

## COMMISSION TO EXAMINE REESTABLISHING PAROLE

(Resolve 2021, Chapter 126)

Friday, October 7th, 2022

9:00am

State House, Room 436 (CJPS Committee Room)

Hybrid Meeting (In-person and Remote Participation Available)

### AGENDA

- I. Introductions**
- II. Presentations (20-30 minutes each):**
  - i. Department of Corrections**
    - The calculation and application of “good time” to sentences
    - An overview of the Supervised Community Confinement Program
  - ii. Francine Stark, Maine Coalition to End Domestic Violence**
  - iii. Elizabeth Ward Saxl, Maine Coalition Against Sexual Assault**
  - iv. Lane Lewis Israeli, George Mason University**
- III. Public Comment**
- IV. Responses to Information Requests from the First Meeting**
- V. Next Steps**

#### PLEASE READ

This meeting will be held in the State House, Room 436, the Criminal Justice and Public Safety Committee Room. However, remote participation will be available for commission members and speakers over Zoom. Members of the public can attend the meeting either in-person or remotely over the Legislature’s streaming platform [at this link](#).

For members of the public who would like to participate in the public comment portion of the meeting remotely, please use the Zoom link that will be provided to the interested parties list prior to the meeting date.

For online access to materials related to the commission’s work, please visit the webpage [at this link](#).

Third Meeting

## COMMISSION TO EXAMINE REESTABLISHING PAROLE

(Resolve 2021, Chapter 126)

*Friday, October 14th, 2022*

*9:00am*

*State House, Room 437 (VLA Committee Room)*

*Hybrid Meeting (In-person and Remote Participation Available)*

### AGENDA

- I. Introductions**
- II. Presentations (20-30 minutes each):**
  - i. Ashley Nellis, The Sentencing Project**
  - ii. Alice Hamblett, Common Justice**
  - iii. Aswad Thomas, Alliance for Safety and Justice and the National Director of Crime Survivors for Safety and Justice**
  - iv. Frederic Reamer, Rhode Island College**
- III. Public Comment**
- IV. Preliminary Discussion of Findings and Recommendations**
- V. Next Steps**
  - Potential tour of the Maine State Prison
  - Review and finalization of findings and recommendations
  - Information requests

### PLEASE READ

This meeting will be held in the State House, Room 437, the Veterans and Legal Affairs Committee Room. However, remote participation will be available for commission members and speakers over Zoom. Members of the public can attend the meeting either in-person or remotely over the Legislature's streaming platform [at this link](#).

For members of the public who would like to participate in the public comment portion of the meeting remotely, please use the Zoom link that will be provided to the interested parties list prior to the meeting date.

For online access to materials related to the commission's work, please visit the webpage [at this link](#).

Fourth Meeting

## COMMISSION TO EXAMINE REESTABLISHING PAROLE

(Resolve 2021, Chapter 126)

*Wednesday, November 16th, 2022*

*9:00am*

*State House, Room 437 (VLA Committee Room)*

*Hybrid Meeting (In-person and Remote Participation Available)*

### AGENDA

- I. Introductions**
- II. OPLA Presentation on Report Process**
- III. Recap of Visits to Maine State Prison and Women's Center**
- IV. Discussion of Findings and Recommendations**
- V. Public Comment**
- VI. Next Steps**

#### PLEASE READ

This meeting will be held in the State House, Room 437, the Veterans and Legal Affairs Committee Room. However, remote participation will be available for commission members and speakers over Zoom. Members of the public can attend the meeting either in-person or remotely over the Legislature's streaming platform [at this link](#).

For members of the public who would like to participate in the public comment portion of the meeting remotely, please use the Zoom link that will be provided to the interested parties list prior to the meeting date.

For online access to materials related to the commission's work, please visit the webpage [at this link](#).



Fifth Meeting

## COMMISSION TO EXAMINE REESTABLISHING PAROLE

(Resolve 2021, Chapter 126)

*Tuesday, November 29th, 2022*

*9:00am*

*State House, Room 437 (VLA Committee Room)*

*Hybrid Meeting (In-person and Remote Participation Available)*

### AGENDA

- I. Introductions**
- II. Public Comment**
- III. Discussion of Findings and Recommendations**
- IV. Closing Statements**

#### PLEASE READ

This meeting will be held in the State House, Room 437, the Veterans and Legal Affairs Committee Room. However, remote participation will be available for commission members and speakers over Zoom. Members of the public can attend the meeting either in-person or remotely over the Legislature's streaming platform [at this link](#).

For members of the public who would like to participate in the public comment portion of the meeting remotely, please use the Zoom link that will be provided to the interested parties list prior to the meeting date.

For online access to materials related to the commission's work, please visit the webpage [at this link](#).



**TO: Rep. Carol Ammons**  
**FR: SPAC**  
**RE: HB2399 HA1 Scenario Questions**  
**Date: January 7, 2022**

**HB2300 HA1 – Early Discretionary Release Fiscal Impact for Prison and Parole**

House Bill 2399, House Amendment 1 (HB2399) amends the Code of Corrections by adding earned discretionary reentry hearings for those who have served at least 20 years in prison, including life sentences. These hearings could result in parole as determined by the Prisoner Review Board if certain qualifications are met. SPAC cannot reliably estimate a full fiscal impact of the bill due to unknown parameters that could substantially change estimates, primarily how many of those eligible for earned release due to accrued prison time would be allowed early release.

Representative Ammons requested that SPAC model the following scenario:

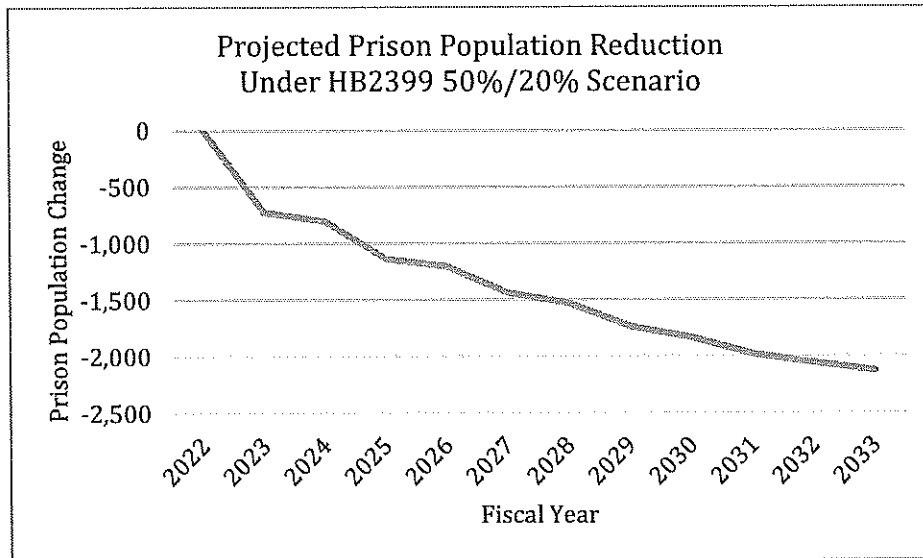
*Everyone in IDOC custody who had served at least 20 years becomes eligible for parole on July 1, 2023. If an individual is denied parole, they have subsequent hearings every two years. In the first two years (first hearing cycle), 50% of the parole-eligible population is released. In each subsequent hearing cycle, 20% of the parole-eligible population is released.*

Under this scenario, SPAC estimates IDOC costs avoided to be about \$115 million over ten years, about \$11.5 million per year. This includes costs avoided for incarcerating people in prison, about \$13.5 million per year on average and additional or offset costs of parole/mandatory supervised release (MSR) of about \$2.0 million per year. The prison population would be reduced by about 2,150 people by the end of 2023. Figures in red indicate costs avoided. Figures in black indicate additional costs incurred.

**Table 1. IDOC Fiscal Impact under 50%/20% Scenario**

Net Present Value (2% Discount Rate) of IDOC Costs	First Year	First Three Years	FY2023-2022
<b>Total Impact (A+B) from Reducing Prison Population and Increasing Parole Population for those incarcerated 20+ years</b>	<b>-\$4,898,520</b>	<b>-\$17,553,858</b>	<b>-\$114,805,150</b>
A) Impact from Reducing Prison Population for those incarcerated 20+ years	-\$7,577,550	-\$27,142,731	-\$135,164,177
B) Total Impact from Increasing Parole Population for those incarcerated 20+ years	\$2,679,030	\$9,588,873	\$20,359,028

**Figure 1: Projection Prison Population Change under 50%/20% Scenario**

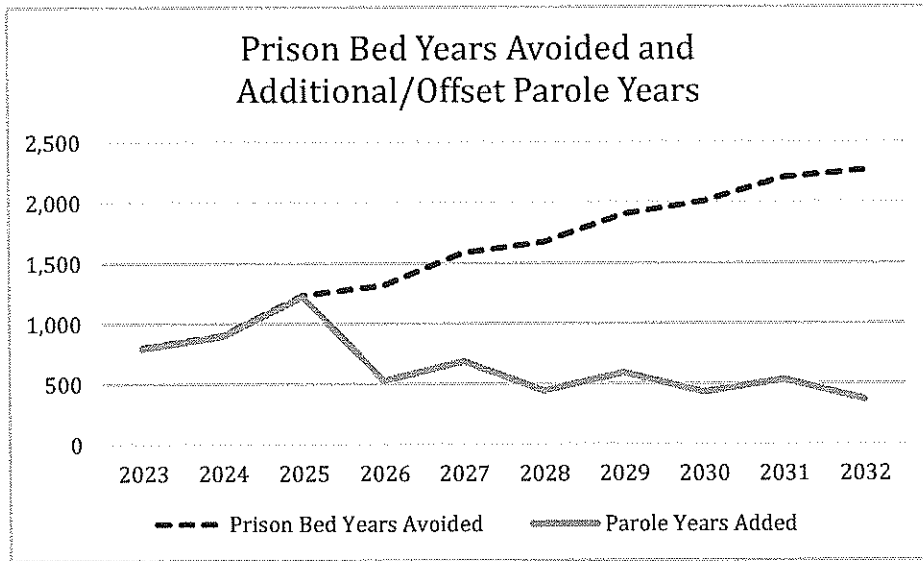


SPAC used FY2021 prison population data to estimate the fiscal impact to IDOC through FY2023 and a projection model to estimate the resulting change in prison population. This includes costs saved from incarceration in prison which may be offset by additional costs for mandatory supervised release. Some individuals simply shift the costs of mandatory supervised release from the future to an earlier date, but retain the same amount of projected MSR. The following caveats are involved with the SPAC estimate and projection:

- Recidivism of those released onto parole/MSR under HB2399 are not modeled in the cost estimates. How many of those would be rearrested, reconvicted, resentenced to prison, or returned to a prison on a technical violation and the timing of such events, as well as the risk pattern of those granted early release will depend on individual early release decisions. For example, about 28% of a 2010-2012 exit cohort that served at least twenty years with at least ten years follow-up were either reconvicted of a new offense or returned to prison on a technical violation. But this cohort will differ compared to a cohort where release is discretionary and with an even older population.
- Additional costs involving other community supervision, recidivism costs, and victimization costs are not modeled for the same reasons.
- Life sentenced individuals are assumed to have parole tenures based on the felony class of their conviction (usually three years).
- People with consecutive sentences are not included in the eligible population.

Figure 2 shows the reduction in prison bed years for each year and the parole years for each year added, which are monetized and discounted to arrive at estimates in Table 1. SPAC used marginal costs of \$9,835 dollars for prison and \$3,494 for parole per year in 2021 dollars. Future costs and benefits are discounted using a 2% discount rate. SPAC then estimated the timing and number of prison bed years saved each year through 2033 and reduced these savings by parole costs. For some people, parole costs are simply incurred earlier while others such as life sentenced individuals have costs incurred that otherwise would not exist for them.

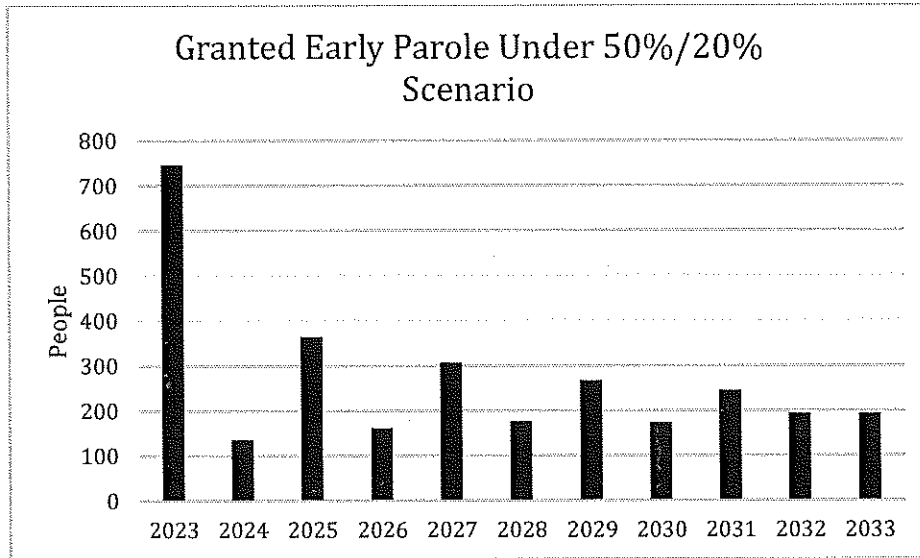
**Figure 3: Prison Bed Years and Parole Years Avoided or Added under 50%/20% Scenario**



In 2023, the projection assumes 50% of those who are at least 50-years old<sup>1</sup> and have served at least twenty years will be released. If they were not released, they have a 20% chance every two years in the future until they are released. For those who accrue 20 years of time served in IDOC after 2023, they have the same chance the first year (50%) and every two years (20%). The initial drop in the projected prison population is larger than future decreases due to the higher chance of initial release and the large pool of immediately eligible individuals. The prison population declines continuously through 2033, eventually projected to be about 2,150 less people. Likewise, the initial number of people added to parole/MSR in 2023 and every two years after that are larger than other years due to the large pool of immediately eligible individuals. About 750 people would be granted parole/MSR in 2023 in this scenario and about 150-300 people would be granted parole/MSR in future years through 2033.

<sup>1</sup> This age restriction only exists in 2023. In future years, if a person accrues 20 years of time served in IDOC, age does not affect their chance or receiving early discretionary release.

**Figure 2: Hearings with Early MSR/Parole Granted under 50%/20% Scenario**



The vast majority of those who have and will accrue 20 years of time served in IDOC are incarcerated for serious violent offenses that may make it difficult for them to comply with conditions of parole and registry requirements. 94% of those who have served twenty years in prison or more are currently incarcerated for either a homicide or sex offense<sup>2</sup>. This is likely to heavily influence the percent of people granted earned early discretionary release.

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<sup>2</sup> This includes attempts, conspiracy, and solicitations of homicide or sex offenses.

**Opportunities to Build a Streamlined, Strong Parole System in Maine**  
*Policy Ideas and Comparisons to inform the Maine Parole Working Group*  
March 29, 2022

**Background:** Jon Courtney reached out to REFORM to ask for our support and ideas for reinstating parole in Maine. He represents a collection of currently and recently incarcerated citizens, scholars, legislators, and activists, including the Maine Prisoner Advocacy Coalition, who successfully passed LD 842 to establish a commission to formulate a pathway to earned, effective reentry in Maine. Maine was the first state to abolish parole in 1976, replacing it with an intended system of gubernatorial clemency, though the coalition can find no instance that a governor has ever extended clemency in 45+ years since. They now have an opportunity to not only reinstate parole but also to author a fresh system that adopts many of the reforms that REFORM advocates for at its root.

Since Maine LD 842 passed in early March, it triggered the formation of a study committee (formation required within 90 days) to report back in mid-December on recommendations for reinstating parole in Maine.

Having cleared this hurdle, they're now looking to advocate for integrating parole reform considerations from other states into a fresh parole system here in Maine and welcoming guidance and support from our team. (More info [here](#).) **The information below is in response to that request and should be treated as a cursory overview of REFORM's framework, with state examples meant to illustrate our points and potential priorities.**

*Parole in Maine: Current and Recent History*

- 1) **Status Quo:** Maine currently uses a system of “supervised community confinement” by which the Commissioner can release certain individuals to the community if they have already served 2/3rds of ½ of their prison term (depending on the length), have at most 2 years left on their sentence (or 30 months if caseloads are low), and meet criteria for release.<sup>1</sup> In 2021, they only had 18 male placements and 22 female placements in this program; and only 19 active clients as of September 2021.<sup>2</sup> While Maine also allows people with *severe* medical issues to be released to supervised community confinement, it does *NOT* have a meaningful standard for geriatric release.
- 2) **Previous use of Parole in Maine:** Before parole was abolished in May 1976, an individual in Maine was eligible<sup>3</sup> for a parole hearing at the following benchmarks:
  - a) *Expiration of minimum term in a minimum-maximum sentence.* Prior to the expiration of the prisoner's minimum term of imprisonment, less the deduction for good behavior, when the law provides for a minimum-maximum sentence;

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<sup>1</sup> ME ST T. 34-A § 3036-A; See <https://www.newscentermaine.com/article/news/local/as-seen-on-tv/maine-updated-supervised-community-confinement-program-helps-prison-residents-to-reenter-society-successfully/97-96865291-c081-4e2c-af6a-b2152758f795>

<sup>2</sup> See [https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/Aug%202021%20Monthly%20Adult%20Data%20Report\\_1.pdf](https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/Aug%202021%20Monthly%20Adult%20Data%20Report_1.pdf) page 22, 26

<sup>3</sup> 34-A M.R.S.A. § 5803

- b) *Expiration of 1/2 of the term in certain cases.* Prior to the expiration of 1/2 of the term of imprisonment imposed by the court, less the deduction for good behavior, when the prisoner has been convicted of an offense under Title 17, section 1951, 3151, 3152 or 3153. This subsection applies to a prisoner who has been convicted previously of an offense under Title 17, section 1951, 3151, 3152 or 3153
- c) *Expiration of 15-year term in life imprisonment cases.* Prior to the expiration of a 15-year term of imprisonment, less deduction for good behavior, when the prisoner has been convicted of an offense punishable only by life imprisonment; and
- d) *Expiration of 15-year term in other cases.* Prior to the expiration of a 15-year term of imprisonment, less deduction for good behavior, when, following conviction, the prisoner has been sentenced to a minimum term of 15 years or more.

**Key Components of an Effective, Meaningful Parole System:**

**Priority #1: Parole Eligibility:** *Allow individuals a meaningful path toward early release without requiring lengthy prison terms.*

**1) State Examples of Meaningful Parole Eligibility Standards in this Area:**

- a) **General Parole Eligibility:** *While this is often an area of continued debate across the country, the most “progressive” parole eligibility policies grant parole eligibility to at least some individuals after they have served 1/3 of their prison term. The most regressive parole policies mandate that individuals serve 85% of their prison term prior to release.*

- i) **Delaware:** Pursuant to 11 Del. C. §4346, the Board may release an offender on parole after one-third of the term imposed by the Court has been served, such term to be reduced by such merit and good behavior credits as have been earned, or one hundred and twenty (120) days, whichever is greater if the Board is satisfied that reasonable probability exists that the offender can be released without detriment to the community or to him/her self; and, in the opinion of the Board, parole supervision would be in the best interest of society and aid to the rehabilitation of the offender as a law-abiding citizen.

**(1) People ineligible for parole may still benefit from a sentence reduction if they have a level V sentence with 1 year + of incarceration.** The court may only modify the sentence if the DOC submits an application for modification showing good cause for a reduction and demonstrates that releasing the person does not pose a risk to society. The “good cause” may include a showing of rehabilitation, serious medical illness, and prison overcrowding.<sup>4</sup>

- ii) **Georgia:** This state generally provides that people are eligible for parole for a misdemeanor after serving the greater of 6 months or 1/3 of their sentence; for most felonies this changes to 9 months or 1/3 (whichever is greater). People

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<sup>4</sup> 11 Del. C. § 4217

serving sentences of 21+ years / some people convicted of violent felonies are eligible after 7 years.<sup>5</sup>

**b) Nonmedical/Expanded Medical Parole**

- i) **Massachusetts:** A pregnant woman in prison, will immediately become eligible for parole with a certification from a physician that states that a release is in the best interest of a mother and her unborn child.<sup>6</sup>
- ii) **Colorado:** Medical parole is available for people at least 55 years old, diagnosed as suffering from a chronic condition (physical or mental) **OR** any age, diagnosed as suffering chronic condition (physical or mental) that requires costly care or treatment.<sup>7</sup>
- iii) **Wisconsin:** Medical parole is available when there is an extraordinary health condition afflicting an inmate such as advanced age, infirmity or disability of the person or a need for medical treatment or services not available within a correctional institution.<sup>8</sup>

**c) Geriatric Parole**

- i) **Alabama:** People can qualify for geriatric parole at age 55.<sup>9</sup>
- ii) **Virginia and Wisconsin** both allow for geriatric parole at 65 years if you have served 5 years behind bars at 60 if the person has served 10 years behind bars.<sup>10</sup>

**Priority #2: Create a Clear Path to Parole.** *Ensure people on parole have a meaningful opportunity to prove their progress during incarceration, a reasonably-timed and meaningful parole decision, and an understanding of future benchmarks that they need to meet if denied.*

**We recommend advocates consider the following questions when creating parole policy:**

- **Is there a presumption of parole in any circumstances?** *A presumption of parole would mean that continued time in prison is not the default option for those with a track record of rehabilitation unless immediate public safety concerns (not a simple decision rooted in the current conviction) are found.*

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<sup>5</sup> O.C.G.A. § 42-9-45 (general) parole eligibility; O.C.G.A. § 16-13-30(d) (eligibility for drug offenses eligible if given longer than 12 yr. sentences); O.C.G.A. § 17-10-7(c) (eligibility for people with 4+ felony sentences); O.C.G.A. § 42-9-45(f) (eligibility for people convicted of violent felonies eligible after 7 yrs. good behavior or 1/3 sentence)

<sup>6</sup> 120 Mass. Reg. 200.11, <https://casetext.com/regulation/code-of-massachusetts-regulations/department-120-cmr-parole-board/title-120-cmr-20000-parole-eligibility/section-20011-early-parole-for-pregnant-females>.

<sup>7</sup> Colorado Code §§ 17-1-102, 17-22.5-403.5

<sup>8</sup> Wisconsin Code § 302.113

<sup>9</sup> Alabama Code §14-14-1 et seq.

<sup>10</sup> <https://www.ncsl.org/research/civil-and-criminal-justice/state-medical-and-geriatric-parole-laws.aspx>



- **Alabama:** Under a new 2021 law, parole is to be granted *unless* the board finds that there is a current and unreasonable risk the prisoner will violate the law if released and the risk cannot be mitigated by parole supervision.<sup>11</sup> *This is an example of a positive presumption.*
- **California:** The hearing panel must grant parole "unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual."<sup>12</sup> *This is a decidedly less positive example; the factors upon which the presumption is based are static criminal history markers, not dynamic factors.*
- **Are their stated guidelines on parole board composition; if so, do they include representation from directly impacted individuals, behavioral health providers, and avoid solely law enforcement experience?**
  - **Delaware:** Board members must include those with a demonstrated interest in correctional treatment, social welfare, or victim advocacy. Chairperson must have experience in probation, parole, or other related areas of corrections.<sup>13</sup>
  - **California:** Commissioners are to reflect a cross section of racial, sexual orientation, gender identity, economic and geographic features of the state.<sup>14</sup>
- **Are factors for parole consideration meaningful and dynamic?**
  - **Delaware:** The board considers an individual's job skills, progress towards or completion of GED, substance abuse treatment, anger management, conflict resolution when determining whether release is in the best interests of society.<sup>15</sup>
  - **Massachusetts:** The board considers a risk and needs assessment, participation in work, education, and treatment programs, and good behavior behind bars when considering an individual's release. They may also consider recommendations of correctional staff, nature of crime, psychiatric and medical exams, and testimony from incarcerated person.<sup>16</sup>
- **Are parole decisions made in a timely, regular fashion with rationales for denying parole articulated in the written record? *It is also important to assess when individuals should be reassessed for parole eligibility. Ideally, someone is NOT prevented from reapplying for parole for several years. Additionally, a parole denial should include a case action plan or a clear articulation of what steps the individual must or should take in order to be granted parole at a later date.***

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<sup>11</sup> Ala. Code § 15-22-26 (parole standards) will be amended in line with this 2021 bill (AL HB 579: [http://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.aspx?BILL=HB579&WIN\\_TYPE=SELECTED\\_STATUS](http://alisondb.legislature.state.al.us/Alison/SESSBillStatusResult.aspx?BILL=HB579&WIN_TYPE=SELECTED_STATUS)); Ala. Code § 15-22-26.2 (mandatory supervision)

<sup>12</sup> Cal. Pen. Code § 3041(b)(1)

<sup>13</sup> 11 Del. C. § 4341

<sup>14</sup> Cal. Pen. Code § 5075

<sup>15</sup> 11 Del. C. § 4347(c)

<sup>16</sup> MGL § c. 127 § 130 (parole factors); 120 CMR 300.05  
<https://www.mass.gov/doc/120-cmr-300-parole-hearings-and-decision-making-general-provisions/download>

- **Florida:** Parole hearing officer makes a recommendation to the commission within 10 days of the interview, and the defendant is notified of the final decision within 90 days of their interview.<sup>17</sup>
- **Mississippi:** An incarcerated individual is informed in writing of the board's decision within 10 days of their deliberation; the "action sheet" will include the reasons why parole was denied, as appropriate.<sup>18</sup>
- **Arkansas:** The person is notified of the decision within 21 days of their hearing.<sup>19</sup>
- **Maine:** Historically parole decisions have been made within the same day; within 10 days of a denial, the incarcerated individual is to receive a detailed memo with the rationale for the denial.<sup>20</sup>

**Priority #3: Making Parole Meaningful and Effective.** *Parole should be a pathway toward employment and wellbeing, not a trapdoor back to prison.*

- 1) **Goal: Set hard parole caps and avoid extensions of parole past these caps.** *Additionally, do NOT allow extensions of parole for unpaid fines, fees, or restitution. Allow unpaid restitution to be converted to a civil judgment or payment plan at the when there is a remaining balance.*
  - a) Typically, parole caps should be set at 1-2 years (or 3 years if politically necessary) or at the remaining incarceration term, less good time (whichever is less). Extensions within those time frames may be allowed for technical violations.
    - i) **California:** Caps parole at 2 years (determinate sentences) or 3 years (lifers) for people released on or after July 1, 2020.<sup>21</sup>
    - ii) **Indiana:** Generally have a 2-year cap or a 1-year cap (the latter is reserved for first-time parolees without violent or sex conviction/rule violations).<sup>22</sup>
    - iii) **Nevada:** Instead of extending parole for unpaid restitution, the Division grants an "honorable discharge" at the end of the person's term if they have fulfilled their conditions and shown that any unpaid restitution is because of economic hardship. A person may earn a "dishonorable discharge" if they have failed to make restitution without a verified showing of economic hardship. Regardless, any remaining restitution following discharge from parole becomes a civil liability.<sup>23</sup>
- 2) **Goal: Include incentives for people on parole.** *Incentives can provide people on parole with a source of hope and a meaningful benchmark for progress. They can also work to reduce*

<sup>17</sup> Fla. Stat. § 947.16

<sup>18</sup> 29 Miss. Code R. § 201-2.4. <https://casetext.com/regulation/mississippi-administrative-code/title-29-prisons-and-parole/part-201-mississippi-state-parole-board-policies-procedures/chapter-2-parole/rule-29-201-24-parole-hearing>.

<sup>19</sup> <https://casetext.com/regulation/arkansas-administrative-code/agency-158-arkansas-parole-board/rule-1580015-002-arkansas-parole-board-manual> See § 2.17

<sup>20</sup> 03-208 CMR Ch. 1, § II (c)(3)

<sup>21</sup> Cal. Pen. Code 3000.01 (sex offenders excluded from these caps).

<sup>22</sup> Ind. Code § 35-50-6-1 Exclusions for lifers and more serious crimes exist.

<sup>23</sup> NRS § 213.154

*supervision caseloads and free up time and resources for officers to have more meaningful interactions with those under their supervision.*

- a) Compliance/earned time credits:
    - i) **Utah**: 30 days per 30 days of compliance/progress toward the case action plan.<sup>24</sup>
    - ii) **Arkansas**: 30 days per 30 days of compliance.<sup>25</sup>
  - b) Create a streamlined, clear, pathway to early termination with a presumption of termination. *Note: Whenever possible, this review process should include a presumption of early termination when certain factors are met and avoid requiring a full board hearing (unless the Government, board or other interested parties object to the termination) to award termination.*
    - i) **Alabama**: Parole board conducts a discharge review at least once every 2 years for people not convicted of a violent offense, who have paid their financial obligation and have not had their parole revoked.<sup>26</sup>
    - ii) **Nevada**: There is not a set timeline for review, but the Division is to recommend early discharge for people who have served at least twelve calendar months of supervision with less than a year remaining, have not violated parole in the last twelve calendar month, are current on fees, have paid restitution in full if able to pay, have completed any ordered substance abuse or mental health program, etc.<sup>27</sup>
    - iii) **Montana**: After someone on parole has served one year of active supervision, their parole officer must review their file and *may* recommend them for conditional discharge (under a conditional discharge, the individual is no longer under the department's supervision for the remainder of their sentence and does not have to pay supervision fees; yet they are still vulnerable to revocation).<sup>28</sup>
- 3) Goal: Limit conditions of parole to only those necessary and beneficial to that individual's case and limit incarceration for technical violations.**
- a) **Problematic Standard Conditions.** As possible, do not provide for broad association bans, curfews, mandatory drug testing, any possession of alcohol, and travel restrictions within a standard list of conditions. These types of restrictions should be narrowly tailored when imposed and should only be imposed if necessary for public safety in THAT individual's case. For example, a restriction on interacting with a co-defendant may make sense in certain circumstances as could travel restrictions preventing someone from visiting a neighborhood where a victim lives. Otherwise, these broad standard conditions can result in numerous, technical violations and distract from the purpose of supervision: rehabilitation.
    - i) **Indiana**: Conditions in Indiana regulations mandate that a person on parole get permission from an officer to own or lease a car or getting a license (or

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<sup>24</sup> U.C.A. 1953 § 64-13-21(7)(a-b)

<sup>25</sup> A.C.A. § 16-90-1303)

<sup>26</sup> See Ala. Code §§ 15-22-37(6) (discharge regulations) and 15-22-23 (authority to discharge)

<sup>27</sup> N.R.S. 213.1543

<sup>28</sup> Montana Admin. Rule 20.25.704. <https://bopp.mt.gov/AdminRules/AdminRule2025704>

renewing) a license to get a car. *This directly undermines any attempt to find employment, get to treatment, etc.*<sup>29</sup>

ii) **Idaho:** The person on parole must get written permission to willfully change employment, change residence, or leave the assigned district. They must also abstain from the use of alcohol beverages as a condition of parole.<sup>30</sup> *The latter conditions, particularly permission to leave the district, can overburden parole officers with requests and undermine the person's ability to find new employment, meet family obligations, and connect with reentry providers.*

b) **Fines and Fees.** If possible, don't require payment of supervision fees during a term of parole and don't allow nonpayment of fines and fees to be a technical violation of supervision; at a minimum, assess the ability to pay BEFORE imposing fines and fees.

i) **California<sup>31</sup> and Oregon<sup>32</sup>** have enacted legislation to end the practice of imposing fees for supervision services.

ii) **Illinois:** You cannot be revoked for failure to pay unless the failure was willful. Ability to pay is considered when imposing a fine.<sup>33</sup>

c) **Graduated Sanctions.** Establish a presumption or strictly limit incarceration for technical violations and implemented a graduated response system to technical violations featuring non-carceral alternatives or incarceration caps. *We suggest referencing Pew Charitable Trusts' recent 50-state overview of revocation/incarceration limits for technical violations for further ideas (available [here](#)).*

i) **Tennessee:** The department is authorized to create a system of graduated sanctions to respond to community supervision violations, with such sanctions taking into account the severity of the current violation.<sup>34</sup>

ii) **Virginia:** As part of Virginia's graduated sanctions regime, incarceration is not allowed for the first technical violation and there is a presumption against incarceration for a second technical violation with a 14-day cap on incarceration if the presumption is overcome. Certain exceptions apply.<sup>35</sup>

#### 4) Create Strong Due Process Protections for Probation Violations:

a) **Probable Cause for Reporting Violation; Search of Seizure.** Specify that parole officers must have probable prior to reporting a technical violation or conducting a search or seizure.

b) **Speedy Revocation Process.** Put clear deadlines in place for a bail hearing following a warrant and detention, preliminary and final revocation hearing.

i) **Mississippi:** Preliminary hearing is to occur within 72 hours of an individual's arrest. The final hearing to decide upon sanctions (i.e. revocation hearing) must

<sup>29</sup> 220 Ind. Admin. Code § 1.1-3-4 (cars)

<sup>30</sup> Idaho Admin. Code r. 50.01.01.250

<sup>31</sup> AB 1869. [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1869](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1869)

<sup>32</sup> See SB 620 (2021 Regular Session).

<https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB0620>.

<sup>33</sup> 730 ILCS 5/3-3-9 (revocation); 730 ILCS 5/5-9-1 (ability to pay)

<sup>34</sup> Tenn. Code Ann. § 40-28-305; Tenn. Code Ann. § 40-28-303

<sup>35</sup> Va. Code § 19.2-306.1

occur within 21 days if the person is arrested or detained unless good cause exists for a delay.<sup>36</sup>

- ii) **New York:** A recognizance hearing is to occur within 24 hours. A preliminary hearing is to occur within five or ten days of an executed warrant (depending on the arrest/release status), and a revocation hearing is to occur within 30 days of a sustained violation at the preliminary hearing or within 45 days following the issuance of a notice of violation or release on recognizance.<sup>37</sup>
- c) **Create a presumption of release on recognizance** barring a finding that the individual presents a substantial risk of willfully failing to appear or an imminent, specific risk of harm to an individual or property.
  - i) **New York:** New York has created such a presumption of release through the Less is More Act passed in 2021.<sup>38</sup>
- d) **Allow for the use of written notice and summons for a technical violation in lieu of a warrant.**
  - i) **Delaware:** Board may issue a warrant or notice to appear.<sup>39</sup>
  - ii) **Arkansas:** Parole board may issue a notice to appear.<sup>40</sup>
- e) **Ensure revocation hearings are meaningful** and that the supervisee has the right to present evidence, witnesses, etc. and has the right to counsel. Specify that the court must note their rationale for revoking parole in the written record.
  - i) **Florida:** Commissioners have to make a written statement of the evidence relied upon and the reasons for revoking parole.<sup>41</sup> People on supervision can cross-examine and present witnesses and evidence.
  - ii) **Kentucky:** The person under supervision has the right to present evidence, witnesses, etc. and the board has to make a written decision regarding probable cause for the violation and following the final revocation.<sup>42</sup>
- f) **Raise the standard of proof for preliminary and final revocation hearings** to the preponderance of the evidence for the preliminary hearing and clear and convincing for the final revocation hearing. *Traditionally, a preliminary hearing seeks to find probable cause and a revocation hearing focuses on the preponderance of the evidence.*
  - i) **New York:** A preponderance of the evidence is the standard for the preliminary hearing; a revocation requires clear and convincing proof of a violation.<sup>43</sup>

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<sup>36</sup> Miss. Code Ann. § 47-7-27

<sup>37</sup> NY Executive Law § 259-i

<sup>38</sup> NY Executive Law § 259-i

<sup>39</sup> Del. Co. § 4352(a)

<sup>40</sup> A.C.A. § 16-93-705

<sup>41</sup> Fla. Stat. § 947.23

<sup>42</sup> See 501 KAR 1:040

<sup>43</sup> NY Executive Law § 259-i

**APPENDIX D**  
**All Department Handouts & Presentation Slides**

# Good Time

A system established by law whereby someone who is sentenced to imprisonment is credited a set amount of time for good behavior and engagement with work/programs that is subtracted from their sentence.

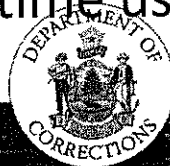
There are three codes that dictate deductions residents may receive:

1983 Code (17-A MRSA § 2310), 1995 Code (17-A MRSA § 2309),  
2004 Code (17-A MRSA §§ 2307 - 2308)



# Eligibility

- Currently, MDOC's adult population is 1,646
  - 1589 of the 1646 residents are eligible for good time
  - 57 are not eligible because they are serving a life sentence
- Criteria for good time deductions include: engaging in work, education, and other programming and demonstrating consistent good behavior.
- When there is a suspended sentence, the length not suspended is used when calculating good time.
  - For example, if someone is sentenced to 15 years with all but 8 suspended, MDOC will calculate their good time using the 8 years.





# 1983 Good Time Code

If a resident committed a crime on or after May 1, 1976 and before October 1, 1995 their good time deductions are calculated using the 1983 good time code. 55 of the 1589 residents eligible for good time receive deductions based on the 1983 code.

This code applies a bulk deduction off the sentence when the person first arrives to an MDOC facility, taking 10 days off a month (about 1/3) of their sentence. This is awarded “up front” on the assumption residents will exhibit good conduct.

Under the 1983 code residents are also eligible to have 3 days a month deducted from their sentence for work/program participation. For those who are minimum or community custody, an additional 2 days a month (on top of the 3 days) is available for participation in minimum security or community programs.



# 1995 Good Time Code

If a resident committed a crime on or after October 1, 1995 and before August 1, 2004 their good time deductions are calculated using the 1995 good time code monthly in a “earn as you go” model.

Residents whose good time is calculated under the 1995 code are eligible to have up to 5 days a month deducted from their sentence.

- 2 days for good conduct

- 3 days for work/program participation.



# 2004 Good Time Code, Part 1

If a resident is convicted of a murder, sex offense or domestic violence on or after August 1, 2004 their good time deductions are calculated under the 2004 code monthly in a “earn as you go” model

Residents convicted of these crimes calculated under the 2004 code are eligible to have up to 5 days a month deducted from their sentence.

- 2 days for good conduct

- 3 days for work/program participation.



## 2004 Good Time Code, Part 2

If a resident is convicted of a crime that is not a murder, sex offense or domestic violence on or after August 1, 2004 their good time deductions are also calculated under the 2004 code monthly in a “earn as you go” model.

The difference is that these residents are eligible to have 7 days a month deducted from their sentence

- 4 days for good conduct

- 3 days for work/program participation

- 2 additional days may be awarded to residents in certain work, education, or rehabilitation programs



# Supervised Community Confinement Program

SCCP is a community-based program that allows incarcerated adult clients to be transferred from a MDOC correctional institution to an approved residence in the community while finishing their sentence.

SCCP is governed by statutory criteria and APA rule.

Individuals who are approved to be part of SCCP are still considered to be in the legal custody of the MDOC but have the privilege to live and work in the community.

Statute covering SCCP: 34-A MRSA §3036-A



# SCCP by the Numbers

## 2022 SCCP

66: Current number of SCCP participants (50 male, 16 female)

102: Number of adult residents who have participated in SCCP to date in 2022. (79 men, 23 women)

To date there is a 78% successful completion rate.



# Process for Residents, Part 1

- At intake residents are provided written information about SCCP, including eligibility requirements, the review and approval process, and conditions.
- Residents work with their case manager on an individualized plan that may include the goal of transferring to SCCP when eligible.
- Residents learn about suitable living options for SCCP clients and behavioral expectations.



# Process for Residents, Part 2

- The application process requires that residents:
  - Are classified as minimum or community custody
  - Have no pending warrants, detainers, etc.
  - Be participating satisfactorily in programs
  - Have no discipline within the last 90 days
  - Meet sentence length criteria, which includes:
    - Having a current release date of no more than 30 months after good time is taken into account, **and:**
    - If a resident has 5 years or less, the individual must have served  $\frac{1}{2}$  of the sentence after good time is taken into account.
    - If the sentence is more than 5 years, the individual must have served  $\frac{2}{3}$  of the sentence after good time is taken into account.





# Process for Residents, Part 3

- When it's the appropriate time, a resident fills out an application which asks about the resident's housing, employment, treatment, and community-based supports. They are assisted in this by their case manager.
- The facility unit team reviews documentation and works with the resident on necessary changes/improvements.
- SCCP application is then sent to the facility CAO, adult community corrections and the Department's Director of Classification for review.



# SCCP and Good Time in Practice: Example 1

- Resident Jane is serving a 6-year sentence. Under the 2004 code she is earning 7 days of good time per month because she's participating in work/programming and is well behaved.  
She maintains her good time because she has no disciplinary actions
- Based on SCCP criteria Jane will be eligible for SCCP after she has served approximately 3 ½ years because of the good time deductions.
- If she were not earning the good time deductions she'd have to wait until she'd served 4 years, which is 2/3<sup>rd</sup> of her 6-year sentence to be eligible for SCCP.



# SCCP and Good Time in Practice: Example 2

- Resident Sam is serving a 12-year sentence. Under the 2004 code he is earning 7 days of good time per month because he's participating in his work/programs and is well behaved.  
He maintains his good time because he has no disciplinary actions.
  
- Sam will be eligible after he's served approximately 8 years because:
  1. SCCP criteria says that if a resident is serving more than 5 years, the individual must serve 2/3 the sentence **and also** be no more than 30 months from the end of the sentence calculated with good time credits.
  2. Taking just good time into account, Sam will be eligible for SCCP after he has served approximately 7 years—which gets him to 2/3<sup>rd</sup> his sentence, but because he'd still be more than 30 months from the end of his sentence he'll have to wait until he's served approximately 8 years.
  3. If good time wasn't factored in, Sam would serve 9 ½ years before being eligible for SCCP.

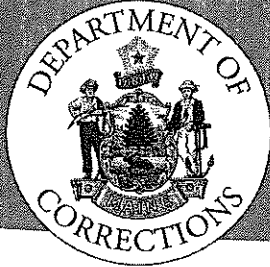


# SCCP and Good Time in Practice

## Example 3

- Resident Karl is serving a 4-year sentence. Under the 2004 code he is earning 7 days a month of good time because he's participating in work/programming and is well behaved. He maintains his good time because he has no disciplinary actions.
- SCCP criteria says that if a resident is serving 5 years or less, the individual must serve  $\frac{1}{2}$  the sentence to be eligible **and also** be no more than 30 months from the end of the sentence calculated with good time credits.
- Taking his good time into account, Karl will be eligible for SCCP after serving approximately 1 year and 7 months, bringing him within the 30 months to release.
- If good time wasn't factored in Karl would serve 2 years.





# Maine Department of Corrections Supervised Community Confinement Program (SCCP)

## SCCP Program Brief

For more information:  
Ryan Thornell, Deputy Commissioner  
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SCCP is a community-based program that allows incarcerated adult residents to be transferred from a DOC correctional institution to an approved residence in the community while finishing their sentence. SCCP is governed by statutory criteria and APA rule.

Individuals who are approved to be part of SCCP are still considered to be in the legal custody of the MDOC.

### How Residents Learn of SCCP

- At intake residents are provided written information about SCCP, including eligibility requirements, the review and approval process, and conditions.
- Residents work with their case manager on an individualized plan that may include the goal of transferring to SCCP when eligible.

### Basic Eligibility

In order to qualify for SCCP, DOC clients must:

- Be classified as minimum or community custody
- Have no discipline within the last 90 days
- Have a current release date of no more than 30 months remaining on their sentence after good time is taken into account.
  - If a resident has 5 years or less, the individual must have served 1/2 of the sentence after good time is taken into account.
  - If the sentence is more than 5 years, the individual must have served 2/3 of the sentence after good time is taken into account.

### Basic criteria for SCCP Approval

Residents eligible for SCCP must also meet criteria, including but not limited to:

- Ability to abide by mandatory conditions and expectations of conduct
- Ability to abide by expectations related to work, education, or rehabilitation as dictated in the resident's case plan
- Demonstrated change in behavior toward evident rehabilitation
- Examples of personal and service-oriented accomplishments (tutoring, mentoring, service to facility, others).
- Review of victim sentiment – strong oppositional victim sentiment doesn't automatically preclude approval, but is taken into consideration.

### Types of Placements Suitable for SCCP

- Home
- Treatment facility (SUD, or MH)
- Support oriented transitional home (for persons in recovery, or veterans, etc.)
- Housing associated with an employer or educational program
- Nursing facility or other hospital-type care setting

### Current SCCP Participants by Responsible Facility

	Male	Female
BCF	18	0
DCF	4	0
MCC	2	0
MSP	1	0
MVCF	25	0
SMWRC	0	16
Total	50	16

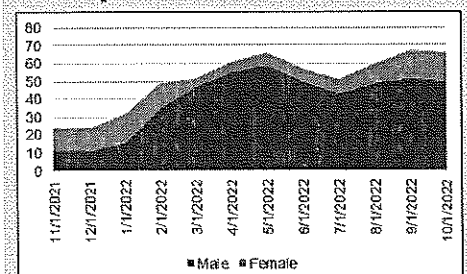
### Current Participants by Community Region

Region 1	16
Region 2	24
Region 3	26
Total	66

### 2022 YTD Successful SCCP Completion Rates

Male Success Rate	79%
Female Success Rate	74%
All Clients Success Rate	78%

### Participants on the 1st of the Month



## DOC Responses to Other Information Requests

- How many people per year are reaching the end of their lives in Maine prisons? How do the numbers break down for men versus women?

It's unclear if this question is referring to elderly residents passing away in part due to an extended age, or deaths in general.

To date there have been 9 in custody deaths in 2022 within a MDOC facility.

On average, since 2017, seven residents have died per year in Maine DOC facilities, the vast majority males.

- How do the numbers break down for men versus women?

Age range	Number in MDOC Custody (M/F)
65-69	M=41, F=0
70-74	M=19, F=0
75-79	M=10, F=2
80+	M=7, F=1

- How many are in hospice programs in DOC facilities?
  - Currently none. At any one time, there is usually only one male and rarely one female.

- How many residents are working in the hospice programs?

There are four at MCC and seven at MSP, though they have other jobs and are involved in programs beyond only the hospice program.

- How many people in Maine are currently serving a “DOC sentence?”

1712 total persons.

Of this total:

- 20 individuals are serving a Maine term of imprisonment in an out of state facility.
- 66 individuals are serving their Maine term of imprisonment while on Supervised Community Confinement (which means they reside in the community, not in a correctional facility).

- How many people currently serving a “DOC sentence” might become eligible for parole if it were reestablished? Understanding that parole can take different forms, and the form could impact the number.

Unfortunately this is impossible to answer as it would depend on the terms of parole.

We could assume however that anyone currently eligible for SCCP would also be eligible for parole.

- What is the cost of running each DOC facility on a per person (resident), per year basis for each facility?

The costs vary depending on the facility. Currently, the average costs on a per year basis per person in a MDOC facility is approximately \$78,000. These costs have significantly increased in the last 18 months due to inflation to goods, increases in utility costs, service costs, and continued decreases in the resident population count.

- What is the breakdown on sentence types and sentence lengths for residents of DOC facilities? Including, how many are serving more than 10 years, more than 20, and life sentences.

Of those who are serving Maine terms of imprisonment in Maine DOC facilities or out of state facilities, there are:

- 1176 persons who have 10 years or fewer until their current custody release date (which is figured by deducting jail detention time from the sentence as imposed and then crediting good time received and retained up to the present date),
  - 164 persons who have more than 10 years but not more than 20,
  - 69 persons who have more than 20 years but not more than 30,
  - 90 persons who are serving more than 30 years but not more than 40,
  - 45 persons who are serving more than 40 years but not more than 50,
  - 33 persons who are serving more than 50 years, and
  - 57 person who are serving life sentences.
- What percentage of convicted persons are on probation in Maine?  
70% of those who are sentenced to the Maine DOC are on probation.  
This does not take account those who are convicted and sentenced solely to county jails or given only fines, etc.
  - Of those on probation, what percentage violate their probation?  
This is hard to determine as many of those on probation who violate their probation receive “graduated sanctions” that do not involve revocations (these are imposed administratively by the DOC) or receive from the courts partial revocations with probation to continue, sometime multiple times. However, in the last year, 20% of probationers had their probations ended due to full revocations or partial revocations with probation to terminate.
  - Of those who violate their probation, what percentage do so by committing new offenses versus violating conditions of their probation?

Of those probation clients whose probations ended due to full revocations or partial revocations with probation to terminate in the last year:

74.3% were due to the commission of new crimes,  
24.5% were due to violating other conditions of probation (often after having received “graduated sanctions” or partial revocations with probation to continue for prior violations), and 1.2% were due to both.

- How did the department’s budget change following the 1976 repeal of parole? What was the budget in the years leading up to 1976 and the years immediately prior (perhaps 1965-1985)?  
We’re not able to answer this.

- How has the number of incarcerated people in Maine (as compared to the population of Maine) changed since the repeal of parole in 1976? How has the rate of recidivism changed in that time?  
We’re not able to answer this.



## Maine Department of Corrections September 2022 Supervised Community Confinement Program Data

The purpose of the Supervised Community Confinement Program (SCCP) is to provide a means of successful reentry of adult facility residents into the community. Residents transferred to supervised community confinement are still considered to be in the legal custody of the Department while in the program. The place of confinement is in the community, rather than in a Department facility. Participation in this program is a privilege which may be afforded to eligible residents who meet the criteria.

Current Participants by Responsible Facility

	Male	Female
Balduc Correctional Facility	18	0
Downeast Correctional Facility	4	0
Maine Correctional Center	2	0
Maine State Prison	1	0
Mountain View Correctional Facility	25	0
Southern Maine Women's Reentry Center	0	16
<b>Total</b>	<b>50</b>	<b>16</b>

Current Participants by Community Region

Region 1	16
Region 2	24
Region 3	26
<b>Total</b>	<b>66</b>

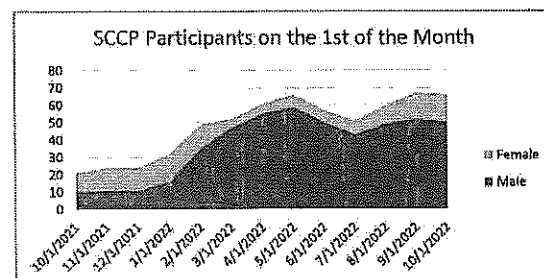
Race & Gender Demographics

Race	SCCP Participants		DOC Population	
	M	F	M	F
Asian	2.0%	0.0%	0.5%	0.0%
Black or African American	12.0%	0.0%	11.7%	4.9%
Native American	2.0%	12.5%	3.7%	4.9%
Native Hawaiian	2.0%	0.0%	0.1%	0.0%
Two or More Races	0.0%	0.0%	1.9%	2.1%
Unknown	4.0%	0.0%	9.5%	0.7%
White	78.0%	87.5%	78.7%	87.4%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

SCCP Applications in Process	40
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SCCP Investigations Completed

2021 Total	166
2022 YTD	160
September 2022	17



	2021 Totals	August 2022	Sept. 2022	2022 Totals	
Male	SCCP Placements	53	9	6	79
	SCCP Completions	34	7	8	48
	Violations (return to custody)	3	0	0	13
	Other*	0	0	0	1
Female	SCCP Placements	34	5	4	23
	SCCP Completions	35	0	3	14
	Violations (return to custody)	4	1	0	5
	Other*	0	0	0	1
All	SCCP Placements	87	14	10	102
	SCCP Completions	69	7	11	62
	Violations (return to custody)	7	1	0	18
	Other*	0	0	0	2

\*No violation but did not complete. Excluded from below completion rates.

2021 Successful SCCP Completion Rates

All Clients Success Rate	91%
Male Success Rate	92%
Female Success Rate	90%

2022 YTD Successful SCCP Completion Rates

All Clients Success Rate	78%
Male Success Rate	79%
Female Success Rate	74%

Violations in 2021

Total SCCP Violations	7
Violation Related to Substance Use	6
Violation Related to Termination from Program/Housing	1
Violation Entered in CORIS	1
Discipline Entered into CORIS	3

Violations in 2022 YTD

Total SCCP Violations	18
Violation for Contacting Victim	1
Violation for Assaulting a Police Officer	1
Violation for Possession of Firearms	1
Violation for Failure to Follow Movement Restrictions	1
Violation Due to Absconding	3
Violation After Arrested for Drug Trafficking	1
Violation Related to Termination from Program/Housing	4
Violation Related to Substance Use	5
Violation due to Driving after Revocation of License	1
Technical Violation Entered in CORIS	6
Discipline Entered into CORIS	8

Updated 10/3/2022



**50-year sentence** (2004 Good Time code)

- Good time credits available: **9 years, 4 months, 10 days** (3415 days at 7 days per month)
- Actual time to serve: **40 years, 7 months, 12 days** (14834 days)
- Time served until SCCP eligibility: **37 years, 7 months, 11 days** (13737 days)

**40-year sentence** (2004 Good Time code)

- Good time credits available: **7 years, 5 months, 25 day** (2730 days at 7 days per month)
- Actual time to serve: **32 years, 5 months, 24 days** (11863 days)
- Time served until SCCP eligibility: **29 years, 5 months, 24 days** (10767 days)

**30-year sentence** (2004 Good Time code)

- Good time credits available: **5 years, 7 months, 15 days** (2050 days at 7 days per month)
- Actual time to serve: **24 years, 4 months, 13 days** (8899 days)
- Time served until SCCP eligibility: **21 years, 4 months, 13 days** (7803 days)

**20-year sentence** (2004 Good Time code)

- Good time credits available: **3 years, 8 months, 20 days** (1355 days at 7 days per month)
- Actual time to serve: **16 years, 1 month, 6 days** (5881 days)
- Time served until SCCP eligibility: **13 years, 3 month, 28 days** (4866 days)

**10-year sentence** (2004 Good Time code)

- Good time credits available: **2 years, 1 month, 9 days** (769 days at 7 days per month)
- Actual time to serve: **8 years, 1 month, 11 days** (2964 days)
- Time served until SCCP eligibility: **6 years, 7 months, 28 days** (2432 days)

**6-year sentence** (2004 Good Time code)

- Good time credits available: **1 year, 1 month, 11 days** (406 days at 7 days per month)
- Actual time to serve: **4 years, 9 months, 28 days** (1762 days)
- Time served until SCCP eligibility: **3 years, 11 months, 29 days** (1459 days)
- 

**4-year sentence** (2004 Good Time code)

- Good time credits available: **9 months, 6 days** (273 days at 7 days per month)
- Actual time to serve: **3 years, 3 months, 0 days** (1186 days)
- Time served until SCCP eligibility: **1 years, 11 months, 30 days** (729 days)
- 

**2-year sentence** (2004 Good Time code)

- Good time credits available: **4 months, 19 days** (139 days at 7 days per month)
- Actual time to serve: **1 year, 7 months, 13 days** (590 days)
- Time served until SCCP eligibility: **0 years, 11 months, 30 days** (364 days)



# Maine Department of Corrections

## September 2022 Supervised Community Confinement Program Data

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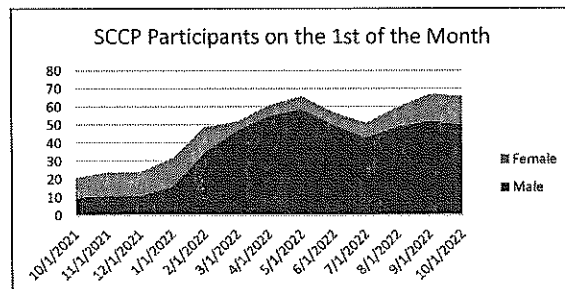
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Unknown	4.0%	0.0%	3.5%	0.7%
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SCCP Applications In Process	40
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	SCCP Completions	35	0	3	14
	Violations (return to custody)	4	1	0	5
	Other*	0	0	0	1
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Violation for Failure to Follow Movement Restrictions	1
Violation Due to Absconding	3
Violation After Arrested for Drug Trafficking	1
Violation Related to Termination from Program/Housing	4
Violation Related to Substance Use	5
Violation due to Driving after Revocation of License	1
Technical Violation Entered in CORIS	6
Discipline Entered into CORIS	8

Updated 10/3/2022

# September 2022

# MDOC Adult Data Report



## **MDOC Data Team**

This document contains key adult correctional data points to assist management and staff in making evidence-based decisions.

Randall Liberty  
Commissioner

Ryan Thornell, Ph.D.  
Deputy Commissioner

Maine Department of Corrections  
25 Tyson Drive  
State House Station 111  
Augusta Maine 04333-0111  
207-287-2711

10/11/2022



# Maine Department of Corrections September 2022 Data Reporting

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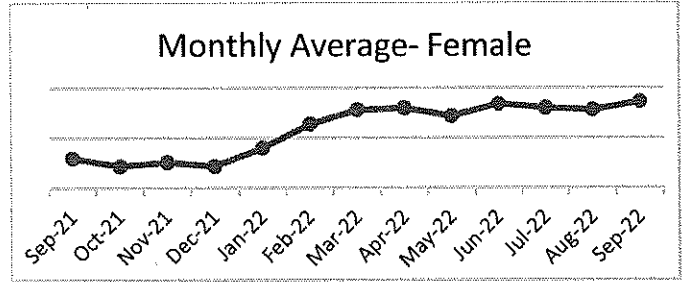
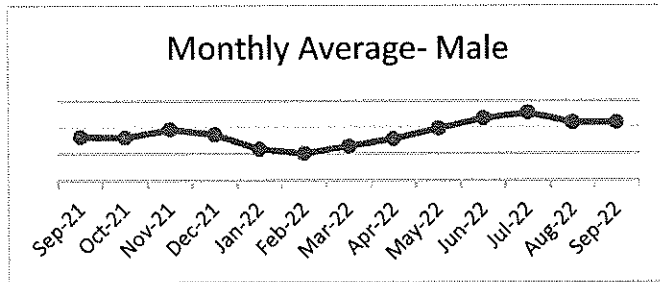
# Maine Department of Corrections September 2022 Data Reporting

## 1.0 Population & Demographics

### 1.1 Incarcerated Population

2021-2022 average population, by month, by gender. *Average Population YTD is based only on 2022 months.*

Month-Year	Male	Female	Total
September 2021	1482	115	1597
October 2021	1480	111	1592
November 2021	1496	113	1610
December 2021	1487	111	1599
January 2022	1459	120	1579
February 2022	1451	132	1583
March 2022	1464	139	1603
April 2022	1478	140	1618
May 2022	1498	136	1633
June 2022	1517	142	1658
July 2022	1527	140	1667
August 2022	1509	139	1648
September 2022	1509	143	1652
<b>Average Population YTD</b>	<b>1490</b>	<b>137</b>	<b>1627</b>



### Population Demographics

#### Average Age

	Male	Female
September 2022	41	38

#### Racial Breakdown by Gender

	Male	Female
Asian	0.53%	0.00%
Black or African American	11.67%	4.90%
Native American	3.71%	4.90%
Native Hawaiian	0.07%	0.00%
Two or More Races	1.86%	2.10%
Unknown	3.51%	0.70%
White	78.66%	87.41%
<b>Totals</b>	<b>100%</b>	<b>100%</b>



# Maine Department of Corrections September 2022 Data Reporting

## Current Population by Controlling Sentence

The table to the right shows the total population by controlling sentence. The 39 in the "Null" category is a result of the correctional information system not being able to determine a controlling sentence. The "Attempt" category represents several offense types where the controlling offense was attempted but not successful. Controlling offense reflects all adult facility population on October 4, 2022.

Controlling Sentence	Total	%	Controlling Sentence	Total	%
Null	39	2%	Murder	210	13%
Arson	30	2%	Other	1	0%
Assault/Threaten	254	15%	OUI	9	1%
Attempt	16	1%	Property Damage	6	0%
Bail	8	0%	Public Admin	25	2%
Burglary	88	5%	Public Safety	1	0%
Conspiracy	1	0%	Robbery	107	6%
Drugs- Trafficking	357	22%	Sex Offenses	217	13%
Drugs- Possession	29	2%	Solicitation	1	0%
Drugs- Other	16	1%	Stalking/Terrorize	7	0%
Falsification	14	1%	Theft	86	5%
Forgery	7	0%	Traffic Criminal	39	2%
Kidnapping	12	1%	Trespass	3	0%
Manslaughter	61	4%	Weapons	8	0%

## 1.2 Behavioral Health Services

Wellpath provided behavioral health services:

- Substance use disorder assessments in September — 67
- Behavioral health intakes for September — 85
- Behavioral health sick calls answered for September — 490
- Adult facility residents on psych meds for September — 1043
- IMHU screenings — 3
- IMHU Groups offered — 90
- Number of times IMHU residents attended groups — 425
- Average number of IMHU daily individual therapy sessions — 44

## Intensive Mental Health Unit (IMHU) Average Population

MDOC recognizes the need to provide structured intensive mental health services in a specialized mental health housing unit to accommodate the needs of male prisoners experiencing serious mental health problems.

The table to the right shows the average daily population in the IMHU by month, while below shows annual ADP.

Year	2014	2015	2016	2017	2018	2019	2020	2021	2022
ADP	22	21	22	26	26	27	23	27	26

Month/Year	Average Pop
September 2021	26
October 2021	28
November 2021	27
December 2021	27
January 2022	28
February 2022	26
March 2022	26
April 2022	27
May 2022	28
June 2022	25
July 2022	25
August 2022	23
September 2022	23
<b>Average Pop 2022</b>	<b>26</b>

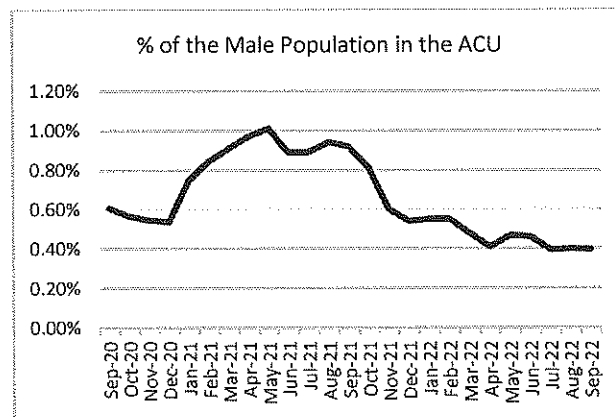


# Maine Department of Corrections September 2022 Data Reporting

## 1.3 Administrative Control Unit Population

The Administrative Control Unit (ACU) is a housing unit at the Maine State Prison for residents in need of an extended period of intensive security and programming, when a return to a larger general population may pose an on-going or serious threat to the safety of others, risk of escape, or another repeated or serious threat to facility security. Residents in the ACU are afforded at least four (4) hours of time out of cell, per day, and are afforded access to programs, services, and communications comparable to general population housing areas.

The percent of the adult male population that was housed in the Administrative Control Unit (ACU) during the month of September 2022 was 0.40% (6 residents). The percent of the adult male population in ACU over the past two years is shown in the graph below.



The below tables show the demographics of residents in the Administrative Control Unit during the month of September 2022.

Race	Males	
	Count	Percentage
Asian	0	0.00%
Black or African American	1	16.67%
Native American	0	0.00%
Native Hawaiian or Pacific Islander	0	0.00%
Two or More Races	0	0.00%
Unknown	0	0.00%
White	5	83.33%

Age Groups	Males	
	Count	Percentage
20's	2	33.33%
30's	2	33.33%
40's	2	33.33%
50's	0	0.00%
60's	0	0.00%
70's	0	0.00%



# Maine Department of Corrections September 2022 Data Reporting

## 1.4 Restrictive Housing Population

Restrictive housing at MDOC is defined as housing that separates a resident from the general population and restricts the resident to his or her cell twenty-two (22) hours or more per day for the safe and secure operation of the facility.

Administrative status is the MDOC's designation used when placing a resident in restrictive housing. Administrative status is the placement of a resident in a cell in a restrictive housing unit separated from the general population or in another housing unit only for as long as necessary as a result of a determination that there is a direct threat to the safety of persons or a clear threat to the safe and secure operation of the facility if the prisoner is on a less restrictive status.

The number of stays below and to the left are the number of times any resident spent any amount of time on the status during the month of September 2022. The number of unique residents below and to the right, are the number of residents that spent any amount of time on the status during the month of September 2022.

Number of Stays for Each Status	Male	Female
Administrative Status	41	1
Disciplinary Segregation	4	0

Number of Unique Residents for Each Status	Male	Female
Administrative Status	37	1
Disciplinary Segregation	4	0

The below tables show the demographics of residents on a restrictive housing status during the month of September 2022.

Race	Male		Female	
	#	%	#	%
Asian	0	0.00%	0	0.00%
Black or African American	6	15.38%	0	0.00%
Native American	1	2.56%	0	0.00%
Native Hawaiian or Pacific Islander	0	0.00%	0	0.00%
Two or More Races	1	2.56%	0	0.00%
Unknown	0	0.00%	0	0.00%
White	31	79.49%	1	100.00%

Age Groups	Male		Female	
	#	%	#	%
20's	12	30.77%	0	0.00%
30's	18	46.15%	0	0.00%
40's	5	12.82%	0	0.00%
50's	2	5.13%	1	100.00%
60's	2	5.13%	0	0.00%
70's	0	0.00%	0	0.00%

For residents placed on Administrative Status during the month of September 2022, the following table lists the reasons for the Administrative Status placement.

Reason for Placement	# of Residents	Reason for Placement	# of Residents
Physical Altercation	12	Threat to Security	2
Safety Concerns	5	Threatening Staff	2
Refusing Staff Orders	5	Medical	2
Protection from Self Harm	4	Threatening Others	1
Possession of a Weapon	3	PREA	1





# Maine Department of Corrections September 2022 Data Reporting

## Average Daily Population on a Restrictive Housing Status by Type

The below tables show the average daily population of residents on a restrictive housing status, as well as the ADP on those statuses as a percent of the total population for the month of September 2022.

Male	
Restrictive Housing Type	ADP on Status
Administrative Status	5.8
Disciplinary Segregation	2.3
Daily Average of Males on RH Status	8.2
% of Male Population on RH Status	0.54%

Female	
Restrictive Housing Type	ADP on Status
Administrative Status	0.1
Disciplinary Segregation	0.0
Daily Average of Females on RH Status	0.1
% of Female Population on RH Status	0.07%

## Average Daily Population on a Restrictive Housing Status by Type and Facility

Gender	Facility	Average Daily Population on Administrative Status in September 2022
Females	MCC	0.1
	Daily Average of Females on Administrative Status	0.1
	% of Female Population on Administrative Status	0.07%
Males	MCC	1.8
	MSP	3.8
	MVCF	0.3
	Daily Average of Males on Administrative Status	5.8
	% of Male Population on Administrative Status	0.39%
All Residents Daily Average on Administrative Status		5.9
% of Total Population on Administrative Status		0.36%

Gender	Facility	Average Daily Population on Disciplinary Segregation Status in September 2022
Females	MCC	0.0
	Daily Average of Females on Disciplinary Segregation	0.0
	% of Female Population on Disciplinary Segregation	0.00%
Males	MSP	2.3
	MCC	0.0
	MCVCF	0.0
	Daily Average of Males on Disciplinary Segregation	2.3
% of Male Population on Disciplinary Segregation		0.15%
All Residents Daily Average on Disciplinary Segregation		2.3
% of Total Population on Disciplinary Segregation		0.14%

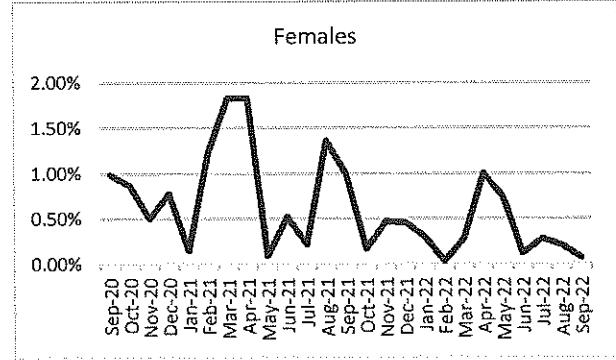
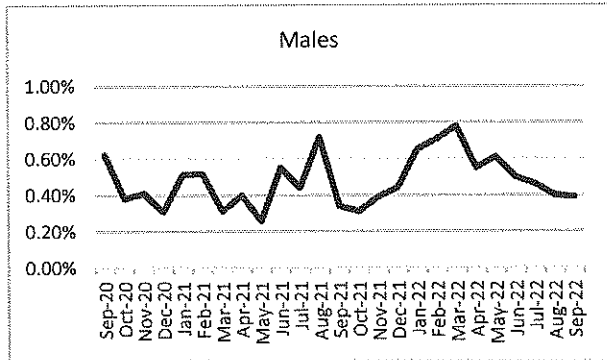


# Maine Department of Corrections September 2022 Data Reporting

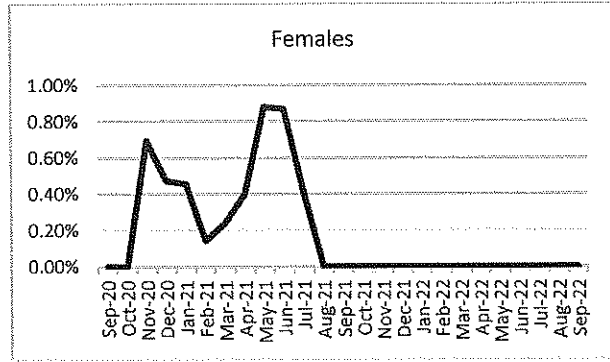
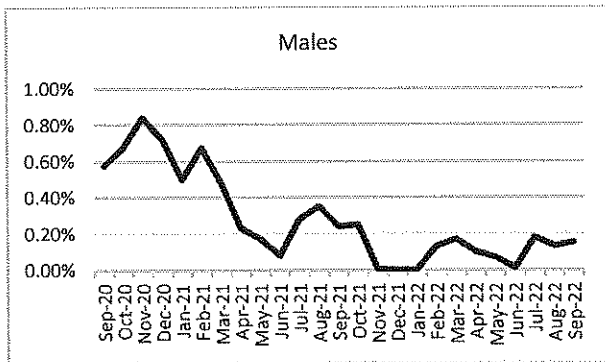
## Average Daily Population on a Restrictive Housing Status as a Percent of the Population

The below graphs show the average daily population as a percent of the population for each type of Restrictive Housing status.

### Percent of the Population on Administrative Status



### Percent of the Population on Disciplinary Segregation



## Average Length of Completed Stay on a Restrictive Housing Status

The tables below show the average number of days residents spent on each status. The data includes all residents whose status ended during each month.

Males	Admin	Disc
Sep-21	4.41	19.50
Oct-21	3.38	85.33
Nov-21	3.03	39.00
Dec-21	3.50	None Completed
Jan-22	5.80	None Completed
Feb-22	3.79	4.67
Mar-22	5.38	25.00
Apr-22	4.09	14.00
May-22	5.37	22.67
Jun-22	3.78	None Completed
Jul-22	4.15	22.00
Aug-22	3.08	33.00
Sept-22	4.71	None Completed

Females	Admin	Disc
Sep-21	1.00	None Completed
Oct-21	1.00	None Completed
Nov-21	1.00	None Completed
Dec-21	3.00	None Completed
Jan-22	1.75	None Completed
Feb-22	None Completed	None Completed
Mar-22	2.00	None Completed
Apr-22	9.50	None Completed
May-22	2.50	None Completed
Jun-22	0.67	None Completed
Jul-22	5.00	None Completed
Aug-22	2.00	None Completed
Sept-22	2.00	None Completed



# Maine Department of Corrections September 2022 Data Reporting

## 2.0 Correctional Programming

### 2.1 Correctional Program Fidelity

MDOC staff participated in a University of Cincinnati Corrections Institute (UCCI) training on fidelity monitoring using their group observation and coaching process. The form is designed to provide a platform for trained staff to observe and rate program delivery in six individual skill areas and adherence to specific program curriculums, providing an overall fidelity score. The scores can range from 0-2. A zero score indicates “needs improvement,” 1 indicates “satisfactory,” and 2 “very satisfactory.”

The table below shows MDOC core programming cumulative scores for 2022 observed programs. *The treatment program expectation is all core programs will be observed a minimum of twice per class cohort.*

**Program Fidelity Scores by Program and Section Year to date, current to October 4, 2022.**

Program Name	MCC-M	MCC-W	SMWRC	MVCF	MSP	MSP- RSU	BCF	Total
CBI-SUD				5				5
CBI-PSB				3				3
CBI-IPV	1			3	2			6
Helping Men Recover				1				1
LIB				2				2
Preparing For Release				1				1
Prime Life				5				5
Prime Sol				3				3
Relapse Prevention				2				2
Seeking Safety				2				2
Socialization					1			1
R&R2				1				1
T4C								0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>28</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>32</b>

### Number of 2022 Observations, by Program and Facility

	Group Structure/Format	Facilitator Knowledge/Modeling	Teaching Skills	Behavior Management	Communication	Interpersonal Characteristics	Average Program Score
T4C	-	-	-	-	-	-	-
CBI-SUD	1.97	2.00	1.89	1.92	2.00	2.00	1.96
CBI-PSB	1.73	1.81	1.62	1.74	2.00	2.00	1.82
CBI-IPV	1.96	1.90	1.93	1.70	2.00	2.00	1.92
Helping Men Recover	1.56	2.00	-	1.88	2.00	2.00	1.89
LIB	1.92	2.00	2.00	1.94	1.90	2.00	1.96
Preparing For Release	2.00	2.00	2.00	1.88	2.00	2.00	1.98
Prime Life	1.93	2.00	1.90	1.90	2.00	1.94	1.95
Prime Sol	1.90	2.00	2.00	1.88	1.93	2.00	1.95
Seeking Safety	2.00	1.90	2.00	1.75	2.00	2.00	1.94
Relapse Prevention	2.00	2.00	2.00	2.00	2.00	2.00	2.00
Socialization	2.00	2.00	2.00	1.80	1.80	2.00	1.93
R&R2	2.00	2.00	2.00	2.00	2.00	2.00	2.00
<b>Total Ave For All by Area</b>	<b>1.91</b>	<b>1.97</b>	<b>1.94</b>	<b>1.87</b>	<b>1.97</b>	<b>2.00</b>	<b>1.94</b>



# Maine Department of Corrections September 2022 Data Reporting

## Client Classification Reviews

Client classification is a correctional process by which each resident is rated per his/her institutional risk and is used to determine an appropriate housing unit. There are four classifications for MDOC residents, including: Close; Medium; Minimum; and Community. An Initial Classification is performed upon admission to a correctional facility after completion of intake assessments. After the initial classification, residents with more than 5 years must be reviewed annually. Residents with 5 years or less remaining or who are transgender, or intersex must be reviewed every 6 months. Case Managers and Unit Teams combined are responsible for keeping classifications up to date.

Classification reviews by facility can be found below (as of October 5, 2022)

Classification Review Status	BCF		DCF		MCC-F		MCC-M		MSP		MVCF		Grand Total	
	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%
Ok	131	76%	16	70%	101	74%	216	73%	494	76%	202	72%	1160	74%
Coming Due	34	20%	4	17%	21	15%	58	20%	139	21%	62	22%	318	20%
Coming Due- Pending Classification	2	1%	0	0%	2	1%	0	0%	5	1%	6	2%	15	1%
Overdue- Pending Classification	2	1%	1	4%	4	3%	0	0%	8	1%	3	1%	18	1%
Overdue	3	2%	2	9%	8	6%	23	8%	8	1%	6	2%	50	3%
<b>Grand Total</b>	<b>172</b>	<b>100%</b>	<b>23</b>	<b>100%</b>	<b>136</b>	<b>100%</b>	<b>297</b>	<b>100%</b>	<b>654</b>	<b>100%</b>	<b>279</b>	<b>100%</b>	<b>1561</b>	<b>100%</b>

**Case Plans (CP) and Case Managers (CM)** The table refers to the status of resident case plans, as well as the percentage of resident reentry case plan notes entered that are required per MDOC policy (As of October 3, 2022).

	BCF	DCF	MCC-F	MCC-M	MSP	MVCF	All Facility Average
Case Plan OK	92%	80%	77%	72%	97%	97%	86%
Old CP Review	4%	12%	16%	9%	2%	3%	8%
Old CM	4%	8%	2%	19%	1%	>1%	7%
No CM	2%	0	4%	>1%	1%	>1%	2%
Reentry %	100%	78%	92%	74%	98%	100%	90%

**MaineCare & Projected Resident Releases-** Through a collaboration with Department of Health and Human Services MaineCare Division, CMs can assist residents in ensuring MaineCare is in place at discharge.

Below are September 2022 releases with MaineCare status at discharge:

- 54 resident releases in September with full MaineCare in place.
- 3 other insurances in place at discharge (parents, VA, and retirement plan)



## Maine Department of Corrections September 2022 Data Reporting

### 2.3 Opioid Use Disorder & Substance Use Disorder Treatment

The tables below highlight treatment for Opioid Use Disorder (OUD) and Substance Use Disorder (SUD) at MDOC adult correctional facilities, separated by male and female treatment cohorts. Waitlists are generated by clinically assessed need. Once a resident is placed on the waitlist, they are offered treatment when a slot becomes available in the appropriate treatment.

“Grand Total” row represents the total number of residents active or wait listed in a treatment program, by program name. It is possible for a resident to be active or waitlisted for multiple SUD/OUD treatment programs, therefore the “total unique participants” row shows the non-duplicated number active in, or on a waitlist for any OUD or SUD treatment. The “total unique male pop” row shows the number of male residents on the day this report was run, and the % of male population represented by the unique participants in the waitlisted and active columns.

Active/Waitlisted numbers are current to October 7, 2022; year to date completions through September 2022.

Male MSUD & SUD Treatment	Active	Waitlisted
MSUD	623	71
SUD CBI-SUA	19	21
SUD Criminal Addictive Thinking	54	16
SUD Individual	63	4
SUD Living in Balance- Core	9	20
SUD Living in Balance- Relapse Prevention	5	1
SUD Outpatient Waitlist	2	170
SUD Prime For Life	11	6
SUD Prime Solutions	8	6
SUD Relapse Prevention	8	4
SUD Residential Treatment Waitlist	0	109
SUD RSU MVCF	39	5
SUD RSUT - Co-Occurring Disorders (MSP)	6	0
SUD RSUT - MSP	38	0
SUD RSUT - Preparing For Release (MSP)	15	0
SUD RSUT - Relapse Prevention (MSP)	7	0
SUD RSUT - Socialization (MSP)	13	0
SUD Seeking Safety	7	5
SUD Stages of Change	11	0
<b>Grand Total</b>	<b>938</b>	<b>499</b>
<b>Unique Participants</b>	<b>674</b>	<b>408</b>
<b>Male ADP Sep (1509)</b>	<b>45%</b>	<b>27%</b>

Male MSUD & SUD Completed 2022	Sep	YTD Total
MSUD	27	272
SUD CBI-SUA	0	45
SUD Criminal Addictive Thinking	3	142
SUD Individual	3	58
SUD Living in Balance- Core	0	48
SUD Living in Balance- Relapse Prevention	8	11
SUD Prime For Life	0	38
SUD Prime Solutions	0	27
SUD Relapse Prevention	0	34
SUD Residential Treatment Waitlist	2	44
SUD RSU MVCF	0	35
SUD RSUT - MSP	4	30
SUD RSUT - Socialization (MSP)	15	16
SUD RSUT Helping Men Recover (MSP)	0	15
SUD RSUT- CBI-SUA (MSP)	0	19
SUD RSUT- LIB (MSP)	0	22
SUD Seeking Safety	0	26
SUD Stages of Change	0	14
<b>Grand Total</b>	<b>62</b>	<b>896</b>
<b>Total Unique Completers</b>	<b>59</b>	<b>520</b>

Female MSUD & SUD Treatment	Active	Waitlisted
MSUD	81	6
SUD CBI-SUA	0	1
SUD Co-Dependent No More	7	0
SUD Criminal Addictive Thinking	7	8
SUD Individual	1	1
SUD Living in Balance- Core	0	2
SUD Living in Balance- Relapse Prevention	14	1
SUD Outpatient Waitlist	0	14
SUD Women’s SUD Services	19	24
<b>Grand Total</b>	<b>129</b>	<b>70</b>
<b>Unique Participants</b>	<b>89</b>	<b>58</b>
<b>Female ADP Sep (143)</b>	<b>62%</b>	<b>41%</b>

Female MSUD & SUD Completed 2022	Sep	YTD Total
MSUD	6	44
SUD CBI-SUA	0	7
SUD Co-Dependent No More	3	3
SUD Criminal Addictive Thinking	18	38
SUD Individual	1	4
SUD Living in Balance- Relapse Prevention	7	41
SUD Women’s SUD Services	17	46
<b>Grand Total</b>	<b>52</b>	<b>183</b>
<b>Total Unique Completers</b>	<b>32</b>	<b>105</b>



# Maine Department of Corrections September 2022 Data Reporting

## Treatment Programming - Males

The programs listed below are the core programming for the MDOC adult facility male population.

“Grand Total” row represents the total number of residents active or wait listed in a treatment program, by program name. It is possible for a resident to be active or waitlisted for multiple treatment programs, therefore the “total unique participants” row shows the non-duplicated number active in, or on a waitlist for any program. The “total unique male pop” row shows the number of male residents on the day this report was run, and the % of male population represented by the unique participants in the waitlisted and active columns.

Active/Waitlisted as of October 7, 2022, completions for September 2022.

Men's Treatment Program	Active	Waitlisted
Alternatives To Violence	0	25
Anger Management	4	12
CBI-IPV	37	106
Challenge Program	14	16
Commitment To Change	6	9
Helping Men Recover	51	27
Houses Of Healing	7	18
Hustle 2.0	7	9
Inside-Out Dads	3	40
Long Distance Dads	0	28
MPRN	9	12
New Freedom	36	22
Nonviolent Communication	38	44
NVC Foundations	2	2
Planning Your Release	12	23
Preparing For Release	7	3
Problem Sexual Behavior Tx (all)	98	178
Process Group	0	2
Psychology Of Incarceration	1	35
R&R2	8	18
Recovery Club	2	1
Recovery Peer Support- Coach	25	14
Recovery Peer Support- Participant	13	6
Restorative Justice	16	3
SAFE	15	69
The Impact of Crime	6	35
Thinking for a Change	5	137
YARP	12	11
<b>Grand Total</b>	<b>434</b>	<b>905</b>
<b>Total Unique Participants</b>	<b>351</b>	<b>659</b>
<b>Male ADP Sep (1509)</b>	<b>23%</b>	<b>44%</b>

Completed Program	Successful
Challenge Program	1
Helping Men Recover	36
New Freedom	1
Problem Sexual Behavior Tx Building a Balanced Life	10
Problem Sexual Behavior Tx Maintenance	2
R&R2	2
Restorative Justice	1
SAFE	3
<b>Grand Total</b>	<b>56</b>
<b>Total Unique Completers</b>	<b>54</b>



# Maine Department of Corrections September 2022 Data Reporting

## Treatment Programming - Females

The programs listed below are the core programming for the MDOC adult facility female population.

“Grand Total” row represents the total number of residents active or wait listed in a treatment program, by program name. It is possible for a resident to be active or waitlisted for multiple treatment programs, therefore the “total unique participants” row shows the non-duplicated number active in, or on a waitlist for any program. The “total unique female pop” row shows the number of female residents on the day this report was run, and the % of female population represented by the unique participants in the waitlisted and active columns.

Active/Waitlisted as October 7, 2022, completions for September 2022.

Women's Treatment Program	Active	Waitlisted
Anger Management	1	1
Healing Trauma	1	0
Healthy Relationships	7	8
Helping Women Recover	4	2
Moving On	2	19
New Freedom	5	1
Problem Sexual Behavior Tx Women	3	0
Recovery Peer Support- Coach	4	0
Recovery Peer Support- Participant	24	1
SAFE	1	1
Thinking for a Change	0	4
<b>Grand Total</b>	<b>52</b>	<b>37</b>
<b>Total Unique Participants</b>	<b>45</b>	<b>35</b>
<b>Women's ADP Sep (143)</b>	<b>31%</b>	<b>24%</b>

Completed Program	Successful
Challenge Program	1
Healthy Relationships	10
Recovery Peer Support- Coach	1
<b>Grand Total</b>	<b>12</b>
<b>Total Unique Completers</b>	<b>12</b>



# Maine Department of Corrections September 2022 Data Reporting

## 2.4 Statewide Education and Vocational Programming – Males and Females

The tables below show active/waitlisted as of October 7, 2022, and successful completions for September 2022.

Education & Vocational Programs	Active		Wait Listed	
	F	M	F	M
Adult Basic Education	2	28	0	4
HiSET Prep Math	10	92	7	25
HiSET Prep Reading	2	79	1	16
HiSET Prep Social Studies	2	60	3	17
HiSET Prep Science	2	64	4	25
HiSET Prep Writing	4	85	4	22
HiSET/HiSET prep	4	0	2	2
College- Semester	39	82	1	12
College- Associate's Degree	33	70	2	10
College- Bachelor's Degree	2	17	0	3
College- Master's Degree	0	5	0	2
Post-Secondary/College prep	3	4	0	10
College	1	44	0	11
SCP Education Hold	0	17	0	2
College Transition	0	82	0	5
Servsafe Certification	7	8	0	41
Auto Mechanics	0	5	0	6
Bee Keeping	0	0	0	7
Building Trades	0	1	0	0
Culinary Arts	1	0	0	1
OSHA Certification	2	16	8	20
Food Preserving Class	0	0	0	1
Work Ready	10	2	10	24
Small Engines	0	0	0	3
Welding	0	5	0	27
Computer Coding	0	1	0	0
Computer Technology	0	5	0	3
NCCER	0	19	2	66
<b>Grand Total</b>	<b>124</b>	<b>791</b>	<b>44</b>	<b>365</b>
<b>Total Unique Participants</b>	<b>71</b>	<b>361</b>	<b>30</b>	<b>235</b>

Education & Vocational Program Completions	Successful	
	F	M
Adult Basic Education	0	2
College Transition	0	1
College- Semester	0	1
HiSET Prep Math	0	2
HiSET Prep Reading	0	4
HiSET Prep Science	2	1
HiSET Prep Social Studies	1	3
HiSET Prep Writing	2	2
SCP Education Hold	0	10
HSED awarded from MDOE	0	2
OSHA Certification	0	5
Servsafe Certification	0	1
Food Service Cook Apprenticeship	0	1
<b>Grand Total</b>	<b>5</b>	<b>35</b>

### \*Active in College as of October 7, 2022

College - Males	BCF	DCF	MCC	MSP	MVCF
College- Associate's Degree	6	1	26	18	18
College- Bachelor's Degree	3	-	1	10	2
College- Master's Degree	1	-	1	3	-
<b>Grand Total</b>	<b>10</b>	<b>1</b>	<b>28</b>	<b>31</b>	<b>20</b>

College - Females	MCC	SMWRC
College- Associate's Degree	9	20
College- Bachelor's Degree	1	1
College- Master's Degree	-	-
<b>Grand Total</b>	<b>10</b>	<b>21</b>

### College Programming at MDOC

For over 20 years, the Maine Department of Corrections has been providing opportunities for residents to participate in and complete college programming. With over 100 college degrees awarded to residents since 2009, the college program has had a transformative impact on the culture of corrections and in the mindset of residents.

For more on the MDOC College Education Program, please see our report "MDOC College Program" at <https://www.maine.gov/corrections/CollegeProgramData>





# Maine Department of Corrections September 2022 Data Reporting

## Statewide Classroom Observations

Education Observation Expectations: Two observations per class cohort. Scoring scale for skill areas is 1= meets standard, 2= exceeds standard, 0=needs improvement. All classrooms have a goal of 1.5 or higher in all skill areas. The table below shows MDOC education programming observations cumulative scores for 2022 as of October 5, 2022.

Facility	All HISET	All ABE	Work Ready	Non-Traditional	Grand Total
MCC-M					0
MCC-W					0
SMWRC					0
MVCF	1		2	4	7
BCF				1	1
MSP					0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>8</b>

Skill Area	HISET	ABE	Work Ready	Non-Traditional
Lesson Planning	2.00		2.00	2.00
Student Engagement Responsiveness	2.00		2.00	1.86
Class Mgt & Leadership	2.00		2.00	2.00
Monitoring & Assessment	2.00		2.00	1.86
<b>Totals Observation Score</b>	<b>2.00</b>		<b>2.00</b>	<b>1.93</b>

## Hi-SET Subtest Completions and High School Equivalency Diplomas (HSED) Earned

HISET Subtest successful completions, by facility, by subject, for August were pulled on October 7, 2022.

Facility	HiSET Subtests Passed September 2022					
	Math	Reading	Science	Soc Studies	Writing	Total
BCF	0	1	0	0	1	2
MCC-M	2	2	0	2	0	6
MCC-F	0	0	0	0	0	0
SMWRC-F	0	0	2	1	2	5
MSP	0	0	0	0	0	0
MVCF	0	1	1	1	1	4
<b>Total</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>17</b>

**HSED Completers**, by facility and completion month. These numbers are pulled from CORIS and periodically compared to Department of Education records for reconciliation. The month indicated below is the actual month the HSED was awarded and issued by Maine Department of Education.

Facility	2022 Jan	2022 Feb	2022 Mar	2022 April	2022 May	2022 Jun	2022 July	2022 Aug	2022 Sept	2022 Oct	2022 Nov	2022 Dec	2022 Total
BCF	0	1	0	0	0	0	0	0	0				1
MCC-M	0	0	0	0	1	2	2	0	1				6
MCC-F	0	0	0	1	0	3	0	0	0				4
MSP	0	1	0	0	0	0	1	1	0				3
MVCF	0	0	1	0	0	0	3	0	1				5
<b>Totals</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>5</b>	<b>6</b>	<b>1</b>	<b>2</b>				<b>19</b>



# Maine Department of Corrections September 2022 Data Reporting

## Facility Grade Level Breakdown

This chart shows the current highest grade-level breakdown of the Adult Facility Population, as of October 6, 2022.

	F	%	M	%	Total	%
Null	26	19%	204	14%	230	14%
0-8 <sup>th</sup> Grade	10	7%	63	4%	73	5%
9 <sup>th</sup> -11 <sup>th</sup>	16	12%	215	15%	231	14%
HS Diploma/HSED	79	58%	900	61%	979	61%
Technical/Trade	1	1%	13	1%	14	1%
Associate	4	3%	36	2%	40	2%
Bachelor	1	1%	32	2%	33	2%
Masters	0	0%	4	0%	4	0%
<b>Grand Total</b>	<b>137</b>	<b>100%</b>	<b>1467</b>	<b>100%</b>	<b>1604</b>	<b>100%</b>

## Department of Education HSED 2016-2021 (completed while incarcerated)

	2016 Total	2017 Total	2018 Total	2019 Total	2020 Total	2021 Total
BCF	8	3	4	3	3	1
DCF	7	2	N/A	N/A	0	0
MCC-All	11	12	19	20	9	16
MSP	30	24	27	19	8	6
MVCF	22	18	20	19	15	10
<b>Totals</b>	<b>78</b>	<b>59</b>	<b>70</b>	<b>61</b>	<b>35</b>	<b>33</b>

## Apprenticeships at MDOC

MDOC has partnered with MDOL and Maine employers to provide registered apprenticeships to its residents. Apprenticeships provide training and career pathways to high-quality jobs that allow earn while you learn.

*\* Active Apprenticeships as of October 7, 2022.*

Apprenticeship Program	Active Participants
Carpentry	5
Culinary Arts	0
Food Service Cook (Institutional)	2
Material Handler	2
Sawmill Operator	1
Wood Harvesting	2



# Maine Department of Corrections September 2022 Data Reporting

## 2.5 Programming Tablets

The programming tablets in our MDOC facilities are corrections grade and operate on a closed, managed network that allows residents access to thousands of hours of free academic, vocational, life skills, and therapeutic programming designed for all learning levels. Currently there are over 700 tablets available to residents at specific levels in the following facilities: Maine State Prison, Maine Correctional Center, and Mountain View Correctional Facility.

“Productive Hours” is the total amount of time residents spent in active programming and “Total Hours” includes “Productive Hours” plus entertainment hours used. Residents earn entertainment time for active programming time.

**September 2022 Tablet Data Points**

Unique Active Residents	1,024
Total Productive Hours	8,497
Total Entertainment Hours	10,025
Total Hours	18,522
Average Hours per Resident	18.09
% of Total Hours that were Productive	45.88%

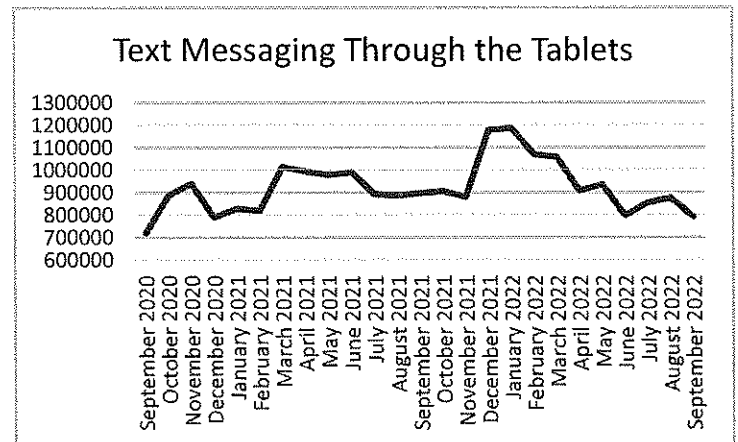
	Unique Residents	Productive Hours	Entertainment Hours	Total Hours	Avg. Hours per Resident	% of Hours that were Productive
MCC	248	3,906	5,156	9,062	37	43.10%
MSP	627	4,269	4,446	8,715	14	48.99%
MVCF	149	322	423	745	5	43.26%

**Department Wide Course Completions  
in September by Type**

Job Skills	1,975	Reading	161
Adult Basic Ed	1,973	Recovery	103
Career Exploration	826	Making Changes	92
Spirituality	467	Legal	68
Inspiration	198	College	53
Health	184	Finance	31
Reentry	167	Documentary	7
Job Search	162	ESL	7

**Text Messaging through Tablets**

The tablets also offer residents the ability to communicate with family and other supports via text messaging. The graph below shows the number of messages sent per month from all MDOC adult facilities.





# Maine Department of Corrections September 2022 Data Reporting

## 3.0 Classification

### 3.1 Average Monthly Gain, by Year, by Gender

This chart shows the average gain/loss of adult facility residents, by gender and calendar year. Current year (2022) is year to date, currently through **September 2022**.

Year	Average Monthly Gain		
	Males	Females	All
2015	0.83	4.08	4.92
2016	5.33	2.25	7.25
2017	1.25	0.42	1.67
2018	-6.17	2.00	-4.08
2019	-13.75	-1.00	-14.75
2020	-28.42	-1.08	-29.5
2021	-7.58	1.25	-6.25
2015-2021	-6.93	1.13	-5.82
2022 YTD	9.33	5.00	14.33

### Admissions & Releases by Facility

September 2022	BCF	DCF	MCC-M	MCC-F	MSP	MVCF	Totals
Admissions for New Charges	N/A	N/A	38	5	0	N/A	43
Admissions for Probation Violations	N/A	N/A	22	1	0	N/A	23
Releases to Probation	2	2	10	1	8	6	29
Straight Releases	6	2	5	3	4	7	27

### 3.2 Current Custody Ratings

Custody Rating Overtime - 2021 & 2022

		Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22
Male	Close	10%	10%	10%	9%	9%	9%	9%	9%	10%	9%	8%	8%	8%
	Medium	52%	50%	52%	52%	52%	51%	51%	51%	51%	51%	52%	51%	52%
	Minimum	24%	24%	25%	24%	26%	25%	23%	22%	24%	24%	24%	23%	23%
	Community	11%	11%	10%	10%	10%	10%	11%	12%	11%	11%	11%	12%	12%
	Unclassified	3%	5%	4%	5%	3%	5%	5%	6%	4%	4%	4%	5%	5%
	Grand Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Female	Close	2%	2%	2%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
	Medium	37%	36%	38%	35%	35%	34%	35%	35%	35%	32%	32%	32%	32%
	Minimum	28%	28%	31%	35%	36%	39%	39%	42%	34%	34%	35%	34%	36%
	Community	30%	28%	26%	20%	20%	19%	18%	18%	23%	25%	27%	27%	26%
	Unclassified	2%	5%	4%	8%	8%	7%	7%	5%	7%	8%	5%	7%	5%
	Grand Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%



# Maine Department of Corrections September 2022 Data Reporting

## 3.3 Facility Transfers

### Number of Transfers between Facilities

Transfer from:	Transfer to:	21-Sep	21-Oct	21-Nov	21-Dec	22-Jan	22-Feb	22-Mar	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep
BCF	DCF	N/A	N/A	N/A	N/A	4	6	2	2	0	3	0	2	0
	MCC	0	0	0	0	0	0	0	0	0	0	0	0	0
	MSP	2	1	1	4	2	2	1	2	1	2	0	2	6
	MVCF	0	0	0	0	0	0	0	0	0	2	1	1	0
DCF	BCF	N/A	N/A	N/A	N/A	0	1	0	0	0	1	0	2	0
	MCC	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0
	MSP	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0
	MVCF	N/A	N/A	N/A	N/A	0	0	2	1	1	2	3	1	1
MCC	BCF	6	5	0	21	1	15	9	5	3	10	7	5	3
	DCF	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0
	MSP	4	5	42	29	19	46	35	33	28	24	16	23	20
	MVCF	17	9	8	15	7	16	10	25	21	23	13	11	17
MSP	BCF	10	5	1	5	12	4	8	3	8	9	10	15	11
	DCF	N/A	N/A	N/A	N/A	0	0	0	1	0	0	0	0	0
	MCC	1	0	1	0	1	0	1	1	0	1	0	1	3
	MVCF	13	6	3	5	4	10	9	9	4	13	10	3	4
MVCF	BCF	1	1	0	0	0	0	1	0	0	2	0	1	1
	DCF	N/A	N/A	N/A	N/A	7	0	4	2	2	10	0	3	2
	MCC	0	0	0	0	0	0	0	1	2	0	0	0	2
	MSP	7	5	1	1	2	1	9	2	0	10	1	0	3
<b>Grand Total</b>		<b>62</b>	<b>61</b>	<b>37</b>	<b>57</b>	<b>80</b>	<b>101</b>	<b>91</b>	<b>87</b>	<b>70</b>	<b>112</b>	<b>61</b>	<b>70</b>	<b>73</b>



# Maine Department of Corrections September 2022 Data Reporting

## 4.0 Supervised Community Confinement Program (SCCP)

The purpose of the Supervised Community Confinement Program is to provide a means of successful reentry of facility residents into the community. Residents transferred to supervised community confinement are still considered facility residents while in the program. The place of confinement is in the community, rather than in a correctional facility. Participation in this program is a privilege that may be afforded to residents who meet the established criteria.

Current Participants by Facility

Male	BCF	18
	DCF	4
	MCC	2
	MSP	1
	MVCF	25
Female	SMWRC	16
Total		66

Current Participants Race & Gender Demographics

Race	SCCP Participants		MDOC Population	
	M	F	M	F
Asian	2.0%	0.0%	0.5%	0.0%
Black or African American	12.0%	0.0%	11.7%	4.9%
Native American	2.0%	12.5%	3.7%	4.9%
Native Hawaiian	2.0%	0.0%	0.1%	0.0%
Two or More Races	0.0%	0.0%	1.9%	2.1%
Unknown	4.0%	0.0%	3.5%	0.7%
White	78.0%	87.5%	78.7%	87.4%
Total	100%	100%	100%	100%

Current Participants by Region

Region 1	16
Region 2	24
Region 3	26
Total	66

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	YTD 2022
Male	SCCP Placements	15	5	12	11	5	4	12	9	6	79
	SCCP Completions	1	1	3	7	10	5	6	7	8	48
	Violations (return to custody)	3	1	1	0	4	4	0	0	0	13
Female	SCCP Placements	0	0	1	3	4	2	4	5	4	23
	SCCP Completions	4	3	0	0	3	1	0	0	3	14
	Violations (return to custody)	1	1	0	1	0	0	1	1	0	5
All	SCCP Placements	15	5	13	14	9	6	16	14	10	102
	SCCP Completions	5	4	3	7	13	6	6	7	11	62
	Violations (return to custody)	4	2	1	1	4	4	1	1	0	18

SCCP applicants and participants may appeal the decision to deny their transfer to SCCP or the decision to remove them from the program. The decisions made after the review of each appeal are included in the table below by month.

Response to Appeal	Appeal of SCCP Transfer Denial		Appeal of Removal from SCCP	
	September 2022	2022 YTD	September 2022	2022 YTD
Decision Upheld	1	5	0	0
Decision Reversed	0	1	0	0
Decision Modified	0	0	0	0
Remanded for Further Review	0	1	0	0
Total Decisions after Appeal	0	7	0	0



# Maine Department of Corrections September 2022 Data Reporting

## 5.0 Prison Industries Report

Prison Industries exist at all adult facilities and provides vocational skill training and work opportunities for residents. The wage earned goes towards room and board, paying fines and restitution, and for resident expense and savings accounts.

The chart breaks down each job by facility location, number of employees, and total of numbers worked during a given month's pay period. Depending on when paydays fall, one month can show an extra pay week.

### Resident Jobs by Facility and Wages Earned

Facility	Job Designation	June		July		August		September	
		# of Emp.	Total Hrs.	# of Emp.	Total Hrs.	# of Emp.	Total Hrs.	# of Emp.	Total Hrs.
BCF	Showroom	4	1,155.3	5	803.0	5	910.0	4	838.0
BCF	Plateshop	7	1,496.0	7	1,000.0	7	1,119.0	7	976.0
MSP	Upholstery PIE Program	3	284.7	2	45.4	3	199.7	2	44.1
MSP	Upholstery	7	821.6	7	696.8	7	488.8	7	592.5
MSP	Woodshop	73	10,475.6	74	7,177.5	73	6,985.5	75	6,104.5
MSP	Metal Shop	6	951.4	6	661.0	6	558.0	6	616.7
MSP	Finishing Shop	11	1,742.2	11	1,178.1	11	1,144.2	11	1,035.4
MSP	Card Design/ Drawing	1	14.0	1	20.0	-	-	-	-
MSP	Fly Tying	-	-	-	-	-	-	-	-
MCC	Upholstery	4	410.00	7	642.00	7.00	640.00	5	448.50
MCC	Stitching & Embroidery	7	343.15	12	523.00	9.00	272.25	10	436.75
MCC	Print Shop	2	249.00	3	280.00	3.00	230.50	5	160.00
MVCF	Pine Grove	-	-	-	-	-	-	-	-
MVCF	Sawmill	10	1,137.50	13	1,248.40	12.00	1,110.00	10	884.50
MVCF	Tug Toys	-	-	-	-	-	-	-	-
MVCF	Woodshop	7	921.00	10	936.50	7.00	838.50	9	1,175.50
<b>Grand totals</b>		<b>142.00</b>	<b>20,001.45</b>	<b>158.00</b>	<b>15,211.70</b>	<b>150.00</b>	<b>14,496.45</b>	<b>151.00</b>	<b>13,312.45</b>

### Total Wages Paid Out by Month

The chart below shows by month, the total wages paid to all Industries resident employees for the hours worked in the chart above.

Facility	22-Mar	22-Apr	22-May	22-Jun	22-Jul	22-Aug	22-Sep
MSP/BCF	\$28,867.28	\$33,820.29	\$37,880.81	\$51,639.23	\$36,319.23	\$37,891.10	\$31,983.83
MCC/SMWRC	\$1,154.83	\$1,991.05	\$1,527.21	\$1,518.61	\$2,178.81	\$1,832.08	\$2,166.35
MVCF	\$3,603.00	\$3,603.00	\$3,984.75	\$4,128.00	\$4,290.53	\$3,731.50	\$4,239
<b>Grand Total</b>	<b>\$33,625.11</b>	<b>\$40,406.95</b>	<b>\$43,392.77</b>	<b>\$57,285.84</b>	<b>\$42,788.57</b>	<b>\$43,454.68</b>	<b>\$38,389.18</b>



# Maine Department of Corrections September 2022 Data Reporting

## 6.0 Office of Victim Services

### September 2022 Highlights

#### Victim Notification:

MDOC, Office of Victim Services (OVS) registers victims of crime for notification of adult or juvenile resident release and enforce such requests as outlined in Statute.

- Number notification requests assisted by the MDOC OVS: 7
- Total new victims registered for notification in September 2022: 14

#### Safety planning:

OVS advocates track information pertaining to releases of persons with problem sexual behavior or domestic violence history into the community. The victim advocate(s) provides support services, referrals, resources and safety planning to crime victims prior to a registered person with problem sexual behavior or domestic violence history being released from an MDOC facility.

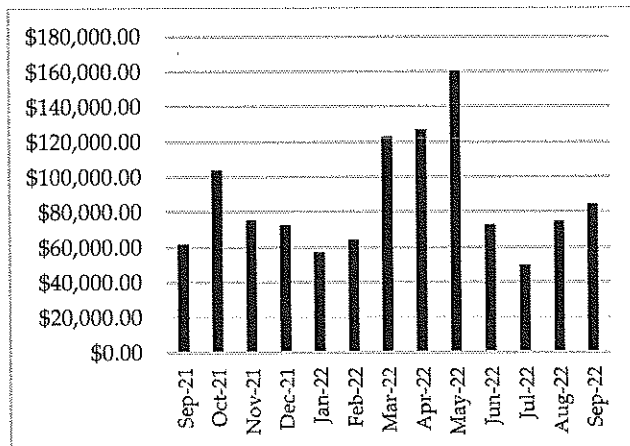
Victim wrap around meetings, or “victim safety planning meetings”, are offered to all victims, and/or victim’s parents/guardians if the victim is a minor, in preparation for the resident’s release.

- Safety Planning meetings for September 2022: 4

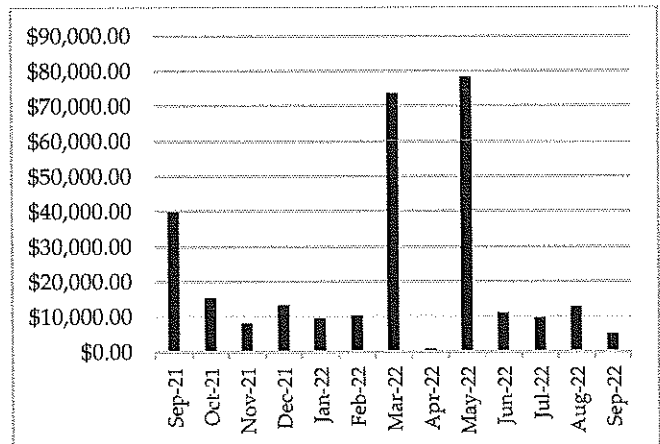
#### Restitution:

- Collected: \$84,703.51
- Disbursed to victims: \$88,882.14
- Cases researched: 46
- Victim contacts involved: 82
- Amount only disbursed due to research of OVS: \$5,050.57

**RESTITUTION COLLECTION**



**MONIES DISBURSED DUE TO ADVOCATE RESEARCH**







# Maine Department of Corrections September 2022 Data Reporting

## 7.0 Adult Community Corrections

### 7.1 Adult Community Caseloads

Adult Community statistics are as of **September 30, 2022**.

“Active” clients are any probationer on community supervision that requires direct contact on a regular basis. “Passive” clients require less contact on a regular basis. Clients on a passive status can be placed on active status at any time.

Client Status		Reg I	Reg II	Reg III	Grand Total
Active	Probation	845	1175	1167	3187
	Parole	2	5	2	9
	SCCP	16	23	27	66
	Interstate Compact In	65	55	96	216
	Pending Violation	102	127	133	362
	Pending Violation - Incarcerated	88	139	108	335
Passive	County Jail	15	14	33	62
	Partial Revocation - County Jail	12	11	10	33
	Interstate Active Detainer	9	0	0	9
	Interstate Compact Out	68	44	32	144
	Warrant Absconded	214	334	358	906
<b>Grand Total</b>		<b>1,436</b>	<b>1,927</b>	<b>166</b>	<b>5,329</b>

### Adult Community Caseload Clients by Status & Race

Client Status		Asian		Black or African American		Native American		Native Hawaiian or Pacific Islander		Two or More Races		Unknown		White		Grand Total
		M	F	M	F	M	F	M	F	M	F	M	F	M	F	
Active	Probation	13	0	132	6	46	16	0	1	23	3	50	10	2358	529	3187
	Parole	0	0	0	0	0	0	0	0	0	0	0	0	9	0	9
	SCCP	1	0	6	0	1	2	1	0	0	0	2	0	39	14	66
	Interstate Compact In	1	0	11	0	4	0	0	0	0	1	5	1	148	45	216
	Pending Violation	2	0	21	2	6	3	0	0	3	0	5	2	243	75	362
	Pending Violation - Incarcerated	0	0	25	1	4	1	1	0	3	0	12	2	241	45	335
Passive	County Jail	0	0	2	0	0	1	0	0	0	0	2	0	45	12	62
	Interstate Active Detainer	0	0	2	0	0	0	0	0	0	0	0	0	6	1	9
	Interstate Compact Out	0	0	37	5	4	0	0	0	3	0	5	1	76	13	144
	Partial Revocation - County Jail	0	0	1	0	0	0	0	0	0	0	1	0	31	0	33
	Warrant Absconded	4	1	91	9	21	3	1	0	6	1	56	9	575	129	906
<b>Grand Total</b>		<b>21</b>	<b>1</b>	<b>328</b>	<b>23</b>	<b>86</b>	<b>26</b>	<b>3</b>	<b>1</b>	<b>38</b>	<b>5</b>	<b>138</b>	<b>25</b>	<b>3771</b>	<b>863</b>	<b>5329</b>



# Maine Department of Corrections September 2022 Data Reporting

## 7.2 Average Age and Race of Adult Probationers by Gender

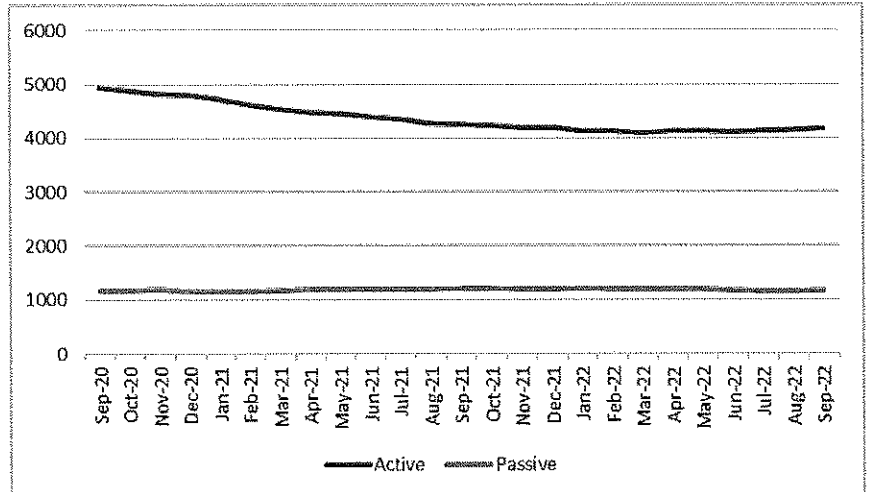
Adult Community statistics are as of September 30, 2022.

	Male	Female
<b>Average Age</b>	40	39

Race	Male		Female	
Asian	21	0%	1	0%
Black or African American	328	7%	23	2%
Native American	86	2%	26	3%
Native Hawaiian or Pac. Islander	3	0%	1	0%
Two or More Races	38	1%	5	1%
Unknown	138	3%	25	3%
White	3771	86%	863	91%
<b>Grand Total</b>	<b>4385</b>	<b>100%</b>	<b>944</b>	<b>100%</b>

## 7.3 Community Population Over Time

	Active	Passive
September 2020	4936	1172
October 2020	4887	1164
November 2020	4825	1183
December 2020	4793	1157
January 2021	4710	1157
February 2021	4623	1153
March 2021	4528	1169
April 2021	4479	1196
May 2021	4449	1187
June 2021	4396	1180
July 2021	4353	1187
August 2021	4277	1196
September 2021	4249	1213
October 2021	4223	1211
November 2021	4193	1195
December 2021	4193	1182
January 2022	4132	1200
February 2022	4130	1189
March 2022	4083	1178
April 2022	4124	1180
May 2022	4139	1180
June 2022	4112	1172
July 2022	4125	1154
August 2022	4151	1154
September 2022	4179	1160





# Maine Department of Corrections September 2022 Data Reporting

## 7.4 Community Investigations

Completed in 2022 Investigation Type	Region 1		Region 2		Region 3		Dept. Sep Total	Dept. YTD Total
	Sep	YTD	Sep	YTD	Sep	YTD		
Furlough Investigation		4		4	2	4	2	12
Pardon	1	7	5	10	4	9	10	26
Pre-Sentence Investigation		4		0		1	17	5
SCCP	1	30	5	59	8	70	29	159
Interstate Compact Investigations							22	179
<b>Totals</b>	<b>2</b>	<b>45</b>	<b>10</b>	<b>73</b>	<b>14</b>	<b>84</b>	<b>80</b>	<b>381</b>

## 7.5 Leading the Way

“Leading the Way” is a Transitional Living Program in Bangor which currently has 14 beds. The community-based transitional residential program provides a safe, structured, living residence designed around engagement with needed supports and services, including behavioral health, independent living skills, and other targeted intervention services to help individuals rebuild after justice involvement.

	On Probation	On SCCP	Total
Census 9/30/2022	5	3	8

	Beginning Census	Admissions	Discharges	Violations	End of Month Census
September 2021	5	3	1	0	7
October 2021	7	0	1	0	6
November 2021	6	3	1	0	8
December 2021	8	4	2	1	9
January 2022	9	3	0	0	12
February 2022	12	0	3	1	8
March 2022	8	2	0	0	10
April 2022	10	0	1	0	9
May 2022	9	1	3	0	7
June 2022	7	4	3	2	6
July 2022	6	5	4	0	7
August 2022	7	5	0	0	12
September 2022	12	1	5	1	8

## 7.6 Probation Successful Completion:

A completion of probation is considered successful when a client is transferred from probation to society because their probation has terminated due to completion of the sentence. Should a client have a full revocation, or a partial revocation with termination, then their probation ends unsuccessfully.

Probation Completions in September 2022	
Successful Completions	157
Full or Partial Revocations with Termination	39
<b>Successful Completion Rate</b>	<b>80%</b>



# Maine Department of Corrections September 2022 Data Reporting

## 7.7 Violations & Revocations

Violations are broken up into three categories and are detailed below to help better understand the table.

- Felony – Probation Violation based on new criminal conduct that is a felony charge.
- Misdemeanor – Probation Violation based on new misdemeanor charges.
- Technical Violation – Probation violation that is technical in nature. Examples include- failure to report, contact with a victim, failure to participate in treatment, and absconding from probation (not limited to these).

Revocations are broken up into three categories and are detailed below to help better understand the table.

- Full Revocation – A probationer has violated the terms of their current probation and will be serving their underlying sentence at a MDOC facility.
- Probation Revocation with Continuation – Probationer will be serving time for a probation violation in either a county jail or in a MDOC facility. Upon release, the probationer will continue probation.
- Probation Revocation with Termination – Probationer will serve time for their probation violation in a county jail or MDOC facility. Upon release, the person will not be on probation.

September 2022 Revocations by Type and Region		County Jail						MDOC Facility						Totals
		Male			Female			Male			Female			All Genders
Violation Type	Revocation Type	R 1	R 2	R 3	R 1	R 2	R 3	R 1	R 2	R 3	R 1	R 2	R 3	All Regions
Felony	Full Revocation	0	2	0	0	0	0	1	3	2	0	0	0	8
	Probation Revocation with Continuation	2	1	4	0	0	0	0	3	0	0	0	0	10
	Probation Revocation with Termination	2	0	2	1	1	1	2	4	2	0	1	0	16
Misdemeanor	Full Revocation	0	1	0	0	0	0	0	0	0	0	0	0	1
	Probation Revocation with Continuation	8	5	1	0	0	1	0	2	0	0	0	0	17
	Probation Revocation with Termination	0	0	1	0	1	0	0	0	1	0	0	0	3
Technical	Full Revocation	1	0	0	0	0	0	0	0	0	0	0	0	1
	Probation Revocation with Continuation	2	4	4	0	0	0	0	0	0	0	0	0	10
	Probation Revocation with Termination	2	2	3	1	1	0	0	1	0	0	0	0	10
<b>Grand Total</b>		<b>17</b>	<b>15</b>	<b>15</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>13</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>76</b>



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Correctional Programming Division  
25 Tyson Drive  
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<http://www.maine.gov/corrections>

Making our communities safer by reducing harm through supportive intervention, empowering change, and restoring lives is the mission of the Maine Department of Corrections.

**APPENDIX E**  
**Materials from Presenters**



AMERICAN CIVIL LIBERTIES UNION

Maine

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## The History and Constitutionality of Parole in Maine

Senator Hickman, Representative Warren, honorable members of the parole commission, good afternoon. My name is Michael Kebede, and I am the Policy Counsel at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. You've invited me here to discuss the history and constitutionality of parole in Maine. I will take the two topics in that order.

### A. Brief History of Parole in Maine

The parole system, like the modern prison, was a 19<sup>th</sup> century American invention.<sup>1</sup> “It consists of two parts, parole boards that have the authority to decide whether and when to release prisoners, and parole officers who supervise [parolees] after their release.”<sup>2</sup>

Before parole, sentences were generally served through confinement in a prison, unless a governor or the president issued a pardon or commutation. After parole, sentences could be finished through supervised release – another form of overseeing and restraining someone serving a sentence for a crime. Parole is often described as the opposite of “truth in sentencing.” This is inaccurate. The parolee serves their entire sentence. They just serve it in a manner that takes account of the person’s perceived rehabilitation and dangerousness. This is very similar to the way that the Supervised Community Confinement Program (“SCCP”) today allows people to earn release from good behavior and other demonstrations of rehabilitation, but does not reduce their sentences.

Maine adopted parole in 1913, toward the end of the Progressive Era. New York had been the first state to adopt parole in 1907, and by the middle of the 20<sup>th</sup> century, every state had followed suit.<sup>3</sup> The ideas that animated the movement to establish parole then are the same ideas articulated by supporters of the bill that established this commission: it serves no good purpose to physically confine people who pose no threat to the public. The movement to establish parole then, and the movement for parole now, never sought to reduce a person’s sentence. Instead, it sought to expand the methods of oversight and restraint available to our criminal legal system. It sought to enlarge the toolbox of criminal punishment. It sought, in a metaphor often used by judges in parole cases, to expand the prison walls.

In 1976, Maine became the first state to abolish parole. The academic literature identifies the “determinate sentencing movement” as the reason for parole abolition. Advocates of the determinate sentencing movement made proposals that appealed to people all along the political spectrum. One scholar writes, “Crime control advocates denounced parole supervision as being largely nominal and ineffective; social welfare advocates decried the lack of meaningful and

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<sup>1</sup> Petersilia, Joan, *The Origins and Evolution of Modern Parole*, *When Prisoners Come Home: Parole and Prisoner Reentry*, Studies in Crime and Public Policy at 74-75 (New York, 2009; online edn, Oxford Academic, 24 May 2012), <https://doi.org/10.1093/acprof:oso/9780195160864.003.0003>, accessed 4 Sept. 2022.

<sup>2</sup> Fox Butterfield, *Eliminating Parole Boards Isn't a Cure-All, Experts Say*, NYTimes, Jan. 10, 1999, <https://www.nytimes.com/1999/01/10/us/eliminating-parole-boards-isn-t-a-cure-all-experts-say.html>.

<sup>3</sup> Will Grunewald, *The State of Maine v. Parole*, DownEast Magazine, June 2022, <https://downeast.com/issues-politics/the-state-of-maine-v-parole/>.

useful rehabilitation programs.”<sup>4</sup> But there was a wider political context that made determinate sentencing particularly attractive.

Eight years before Maine abolished parole, Richard Nixon had made law and order his central campaign issue. Nixon’s campaign, and his 1968 victory, had a deep and far-reaching impact on politics in this country. After Nixon, the “tough-on-crime” movement went mainstream in American politics, leading to skyrocketing incarceration rates, and the spread of the so-called “truth-in-sentencing” movement. Liberals across the country also opposed the discretion of parole boards, arguing that it leads to results that were biased by race and class. The result was the end of parole, and the vast expansion of our criminal legal system.

## **B. Constitutionality of Parole in Maine**

Stated simply, parole is constitutional in Maine. No case from the Law Court, the state’s highest tribunal, has held otherwise. The two leading cases on parole in Maine, *Gilbert v. State* and *Bossie v. State*, decided in the 1980s, both support the proposition that there is nothing unconstitutional about the practice or concept of parole. Some might read these cases, especially *Bossie*, and come away thinking the opposite; so, I will describe what the court did in both cases, and explain how they both support the conclusion that parole is a constitutional exercise of legislative power.

In *Bossie*, three incarcerated men sued the state alleging that the Maine Department of Corrections miscalculated the amount of time that should be reduced from their sentences for serving “good time” under a law then in effect.<sup>5</sup> The Court not only disagreed with the men, but also struck down the law allowing for “good time” deductions from prison sentences because the law infringed on the Governor’s exclusive power to commute sentences.<sup>6</sup> Article five, part one, section eleven of the Maine Constitution states:

The Governor shall have power to remit after conviction all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons.

This section grants the governor power to commute and pardon sentences. Article three, section two provides:

No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

This section prevents one branch from interfering with a power explicitly granted to another branch. This is the section that enshrines the separation of powers principle in state constitutional law, and gives courts the basis to invalidate actions by one branch that encroach on powers explicitly granted to another branch. Citing these two sections of the constitution, the Law Court

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<sup>4</sup> Petersilia, Joan, *supra*, 65.

<sup>5</sup> *Bossie v. State*, 488 A.2d 477, 479 (Me. 1985).

<sup>6</sup> *See* Me. Const. art. V, Pt. 1, sec. 11; art. III, § 2.



invalidated the “good time” law, which would have allowed for reductions in sentences for those who faithfully observe the requirements of a prison sentence. Describing its own reasoning, the Court stated,

The new statute violated the separation of powers between the legislature and the Governor because when applied to inmates sentenced before its enactment, it acted to commute the length of existing sentences.<sup>7</sup>

The court was clear: the constitutionality of the law turned on whether it allowed anyone but the governor to reduce the length of sentences. The court then went on to describe the difference between parole and commutation, articulating why parole does *not* shorten sentences, and is therefore constitutional.

The seminal parole case in Maine is almost certainly *Gilbert v. State*, decided a year after *Bossie*. In that case, a man who was serving a life sentence sued the state for, among other things, denying him parole.<sup>8</sup> At trial, the judge had ruled that Gilbert, the plaintiff, may “never . . . be granted parole, because application of the post-1951 parole statute amendments to Gilbert. . . infringes upon the Governor’s exclusive constitutional power to commute sentences after conviction.”<sup>9</sup> On appeal, the Law Court ruled that “[b]ecause of the inherent differences between parole and commutation, a grant of parole to Gilbert on the authority of amendments passed after his conviction would not amount to a commutation of his sentence in violation of the constitutional demands of separation of powers.”<sup>10</sup>

Comparing the case before it to *Bossie*, the *Gilbert* Court stated:

[L]egislative acts that “commute” sentences are those that shorten the length of time a previously convicted and sentenced inmate must serve. [*Bossie*,] 488 A.2d at 479–80. Parole, however, does not shorten the length of a sentence. Instead, parole is a change in the manner in which a sentence is served in that the parolee remains under the custody of the institution from which he is released but executes the unexpired portion of his sentence outside of confinement. . . . Unlike a commutation, the release on parole is conditional, and the parolee is subject both to the continuing supervision of his parole officer and to the threat of return to prison to serve out his sentence there if he violates a condition of parole.

*Gilbert*, 505 A.2d at 1328. In other words, parole is supervision by another name; parole is supervised release; parole is not total freedom, because it carries a risk of return to prison – a risk that has been tailored to the person on parole. The *Gilbert* court further explained parole:

Parole . . . is a legislative program of rehabilitation and restoration of persons convicted of crime to useful membership in society. The purpose of the law is to offer the institutionalized convict the opportunity to make good on his own outside the prison walls but under the immediate supervision of the probation-parole officer to whom the parolee must report and whose guidance he may seek at all times. . . . To the extent that the

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<sup>7</sup> *Gilbert*, 505 A.2d at 1328.

<sup>8</sup> *Gilbert v. State*, 505 A.2d 1326, 1327 (Me. 1986).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

parolee must strictly observe all the conditions of his parole and remain within the area of permitted enlargement of the prison walls consistent with effective supervision, he is not a totally free man.<sup>11</sup>

The court here describes parole as an “enlargement of the prison walls,” and not as a reduction of the prisoner’s sentence. Crucially, neither the *Gilbert* nor the *Bossie* courts invalidated laws for being retroactive. Nothing in either case supports the notion that retroactive parole is inherently unconstitutional. The only parole laws that *are* unconstitutional under the analyses in both cases are laws that commute a sentence.

Indeed, the *Gilbert* and *Bossie* courts did strike down a law for violating the separation of powers principle. After upholding the parole system as constitutional, the *Gilbert* court turned its attention to a law that empowered the Parole Board to reduce life sentences after 10 years of parole.<sup>12</sup> The court ruled that “[l]ike the “good time” law in *Bossie*, ... [this law] would act as a commutation of *Gilbert's* sentence and thereby usurp a power that the Maine Constitution vests exclusively in the Governor.”<sup>13</sup> Thus, in both *Bossie* and *Gilbert*, the Law Court struck down laws that allow reductions of sentences, while reaffirming the constitutionality of parole.

## Conclusion

Across the country, “[d]iscretionary parole release was once the mechanism by which more than 95 percent of U.S. prisoners returned home.”<sup>14</sup> Then starting in the mid-1970s, Maine and other states followed the tough-on-crime movement and abolished parole. Parole was and remains constitutional in Maine. The constitution has been found to prohibit the legislature from granting power to reduce sentences, but no court has found that the Maine constitution prohibits prospective or retroactive parole.

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<sup>11</sup> *Id.* (quoting *Mottram v. State*, 232 A.2d 809, 813–14 (Me.1967)).

<sup>12</sup> *Gilbert*, 505 A.2d at 1329.

<sup>13</sup> *Id.*

<sup>14</sup> Petersilia, Joan, *supra*, at 74-75.

## My Recommendations

1. Parole should be presumptive and available to all prisoners.
2. Maine Department of Corrections should be mandated to provide rehabilitation programs for all inmates, such as drug and alcohol treatment, mental health, and sex offender treatment programs for offenders.
3. Maine should have a parole system that is separate and autonomous from the Department of Corrections. It should be diverse professionals appointed by the Governor with the advice and consent of the Maine State Senate. They should be focused on patrolling inmates who have demonstrated good behavior, addressed the problems related to their criminal behavior, and earned an opportunity to serve the remainder of their sentence in the community under parole supervision by participating in programs related to their crime.
4. Maine should have a parole system that is separate and autonomous from the Department of Corrections. It should be diverse professionals appointed by the Governor with the advice and consent of the Maine State Senate. It should be comprised of a balanced set of professionals representative of a diverse set of disciplines and experiences.
5. The Study Commission should consult the Prison Policy Institute and Rubina Institute reports on existing parole structures for guidelines to consider in crafting Maine parole policy.
6. Read Dr. Frederick Reamer's On the Parole Board and invite him to a Parole Study Commission meeting to talk about his book and share his wisdom on parole.
7. Read Dr. Joan Petersilia's book, Reforming Parole in the Twenty-First Century. It is only 241 pages.
8. Parole Officers should be under the Parole Board instead of the Department of Corrections. They should be trained to do Casework as opposed to Law Enforcement attitude.
9. One Parole Study Commission meeting should be held at the Maine State Prison. This is where most of the inmate affected by parole is housed. It will be a great way to show the Study Commission it taking this study seriously. It will be a morale booster for the inmate population.
10. Maine State Parole Board should work with community stakeholders and treatment professionals to eliminate barriers assure those returning to the community can get into treatment programs.

11. Review Jorqe Renaud' report Grading Paroles to replicate best practices.
12. Collaborate with working groups like the Maine Parole working group, Maine Restorative State Wide Coalition, and REFORM others identified.
13. Collaborate with Open Table, Erica Buswell ( [erica@rjpmidcoast.org](mailto:erica@rjpmidcoast.org) , Restorative Justice Project Maine.



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Date: October 7, 2022

To: Commission to Examine Reestablishing Parole  
Senator Craig Hickman, Chair  
Representative Charlotte Warren, Chair

Senator Hickman, Representative Warren, and distinguished members of the Commission, my name is Francine Garland Stark, and I am the Executive Director of the Maine Coalition to End Domestic Violence (MCEDV). MCEDV represents the eight regional domestic violence resource centers (DVRCs) across Maine. In FY2021, **13,175 people** sought and received assistance from Maine's DVRC's, which provide 24-hour crisis intervention, emergency sheltering, housing assistance, legal advocacy, child protective advocacy, and other practical assistance to help survivors overcome barriers to achieving safety for themselves and their children as well as consultation for those concerned about them. When domestic violence homicides happen, DVRC advocates are available to provide support for the surviving families in coordination with the Victim Witness Advocates in the Office of the Attorney General.

I have worked in the movement to end domestic violence for 37 years, 30 of which I spent responding myself or supervising advocates who were staffing the crisis line, supporting families in shelter, and helping survivors navigate their way to safety through the criminal and civil legal systems as well as public assistance programs and housing services. In addition to the thousands of survivors whose stories I have heard through my professional roles, 3 of my 5 sisters are survivors of domestic violence, as were my grandmothers. Since stepping into my role at the Maine Coalition to End

Domestic Violence, I have had the privilege to serve on the Commission on Domestic and Sexual Abuse, The Domestic Abuse Homicide Review Panel, the Elder Justice Coordinating Partnership, the Justice for Children Task Force, the Maine Criminal Justice Academy Board of Trustees, and the Deadly Force Review Panel. My understanding and analysis of abuse and violence is informed by deep roots in victim experience and services as well as my engagement with the many systems charged with intervening, investigating, prosecuting, and mitigating the impact of abuse and violence.

#### I. Create Communities Where Transformation is Possible

As we look at the possible impact of re-establishing parole on survivors of domestic abuse and violence, including the surviving families who lost loved ones to domestic violence homicide, we appreciate that, as is true for many other criminal justice reform proposals, there are crime victims in our state who would support a thoughtful system of parole and others who categorically oppose it. There are those who would never seek the intervention of the criminal legal system and others who demand that criminal legal system penalties for domestic violence crimes be swift, certain, and substantial.

We have an obligation to hold the truth and legitimacy of all those perspectives. Despite this broad spectrum of opinion regarding the value and impact of incarceration, there are some things that we know to be universally true: the overwhelming majority of those who commit crimes in Maine each year are people who will, at some point, again live in our communities; and we all need to do better at ensuring there are sufficient community support resources to attend to that reality – throughout our vast rural regions as well as in our population centers. We also know that it is better for our communities if crime is prevented, because the costs of repairing what is broken by trauma are much higher than the costs of raising whole human beings.

An informative report has just been published by the Alliance for Safety and Justice,<sup>1</sup> bringing a perspective that I suspect will be of help to this

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<sup>1</sup> “Crime Survivors Speak 2022: National Survey of Victims’ Views on Safety and Justice,” Alliance for Safety and Justice, available at: <https://allianceforsafetyandjustice.org/wp-content/uploads/2022/09/Alliance-for-Safety-and-Justice-Crime-Survivors-Speak-September-2022.pdf>.



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Commission. While ideas about the role of the criminal legal system vary, it is clear the majority of crime victims favor a transformative approach to justice. MCEDV supports this approach, articulated by the late South African Archbishop Desmond Tutu, who said that justice requires three things 1) that the truth be told; 2) that to whatever extent possible the harm be repaired; and 3) that the conditions that produced the injustice be changed. We take this approach at both the individual survivor level and in our state level public policy work.

Applied to the question of whether to re-establish a system of parole in Maine, I would apply this thinking in this way:

- 1) The truth needing to be told includes not only the specific crime or crimes that the person has committed but also the context and impact of those crimes on any victims. The truth to be told can and should include both the harm done and any context of harm that may have marked the life of the person who commits a felony level crime resulting in a multi-year prison sentence;
- 2) The harm to be repaired should include not only the harm to the crime victims, but also attention to the ongoing impact of whatever historic or personal harm the person committing the crime experienced;
- 3) The conditions that produced the injustice needing to be changed include both the individual level – specific to any relationship that may exist between the person committing the crime and those they have harmed – and also the community context. Changing the conditions of the community context includes so many questions, a few of which are:

- Do intervention, treatment, and/or support programs exist to address the underlying roots of this person's particular criminal behavior?
- Are there programs to support the victims' healing and long-term safety?
- Who are the people who will help the person released back into community to stay on course in their road to rehabilitation and long-term change?

As this Commission continues its work, MCEDV encourages you to ask and answer the important questions about what types of rehabilitation and recovery support would need to be built or bolstered alongside any re-establishment of parole to ensure that parole is an achievable goal for Maine's incarcerated population – not only to be granted parole, but to successfully be reintegrated into the community without detrimental impact on the safety of their victims. It is important to take into account that there are significant differences between the interventions that address the causes of domestic violence crimes and those that address such challenges as chronic mental health and/or substance use disorders.

We recognize that, particularly for those who are sentenced to a relatively short term of incarceration, keeping that person institutionalized for just a few years longer with other people who have also committed crimes may not necessarily increase community safety long-term. On the other hand, our correctional facilities are not currently structured or funded to be rehabilitative in nature and to fully support capacity for behavior change. Nor are there currently sufficient re-entry services available to support those who might be paroled. There are so many people living in communities across Maine who are desperately seeking recovery and rehabilitation support services, who cannot find them. What if we funded recovery and rehabilitation support services for all who need them now? What impact might that have on reducing crime rates as soon as a year from now?

We also observe there are not sufficient structures in place for post-release community level monitoring and accountability to not place an ongoing burden on crime victims for reporting non-compliance or renewed criminal behavior. These would need to be built with careful intersectional thinking, intention, and planning. At this point, as reflected in the 13<sup>th</sup> biennial report of





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the Maine Domestic Abuse Homicide Review Panel, we still do not even consistently remove guns from people who should not have them.<sup>2</sup>

In the context of domestic abuse and violence, already a patterned crime, any resident of a Maine Dept. of Corrections facility is very unlikely to be a “first-time” offender. Parole without an appropriate opportunity for behavior change, a reasonably accurate assessment for whether behavior change has been accomplished, and sufficient support and supervision upon re-entry is thus highly likely to have negative impact on victim safety. Unlike victims of many other crimes, for domestic abuse and violence there is most often more that binds the victim and the offender than just the crime for which the offender was incarcerated, including friends and family in common, children, and financial interests. Particularly for those victims who experienced years of abuse or suffered serious bodily injury, it is common for victims to express that the time the offender was incarcerated was the first time that the victim lived in peace and could focus on positive reconstruction of their lives for any real length of time. Without appropriate attention to supports for behavior change during the period of incarceration, and a reasonably accurate method of confirming behavior change, the prospect of parole would, for these victims, involve a type of constant vigilance and an uncertainty about when that ability to live in mental peace will end. And any system of parole would include periodic parole hearings, causing victims to relive traumatic events and experience the same debilitating uncertainty and strain that they experienced through the initial adjudication process.

A woman once approached me after a workshop I was teaching. She said that she wanted to thank the organization I worked for, Partners for Peace, for

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<sup>2</sup> See “13<sup>th</sup> Biennial Report of the Maine Domestic Abuse Homicide Review Panel (2021),” at pg 19, available at: <https://www.maine.gov/ag/docs/DAHRRP-Report-for-Posting-ACCESSIBLE.pdf>.

saving her life. She said that she and her 5 sons had been in our domestic violence shelter 25 years before... when she escaped her abusive husband. She wanted me to know that her abusive ex-husband had died recently, so they were finally, truly safe. She had never reconciled with her ex... and he continued to stalk and threaten them until he died. To live with that kind of daily vigilance is the common experience of survivors of domestic abuse and violence. And we know now that trauma from abuse impacts not only quality of life for the person harmed but longevity as well, in the form of heart disease, chronic pain, and arthritis later in life.

I have provided support for families through the time elapsing from initial arrest to sentencing. I am thinking about one family in particular whose daughter was the victim of domestic violence homicide. They felt sick every day for nearly two years through the process of continuances, the trial itself, and finally the sentence. Our current system of truth in sentencing provides them with the comfort of knowing that they will not have to continue to bring testimony in order to keep the person who killed their daughter in prison. And to the degree that they can heal, they will be able to do so without the triggering experience of periodic parole hearings.

We believe in the capacity of many of those who have committed crimes, including those who have committed domestic violence crimes, to change, and we share the desire to address the disproportionate impact the criminal legal system has on marginalized communities, specifically including communities of color, people living in poverty in Maine, and those impacted by substance use disorders for whom the criminal legal system has been the default community response. However, particularly for those who have used violence to cause intentional harm, investment in recovery and rehabilitative supports – both within correctional facilities and within communities – must go hand in hand with a process of decarceration in order to properly address the safety of community and of the victims who have been harmed. Mechanisms for appropriate monitoring and accountability upon reintegration into the community must be assured to eliminate the need for a victim to bear an ongoing burden of reporting renewed abusive and criminal behavior.

## II. Minimum Attention to Victim-Specific Issues

In addition to creating much needed and accessible recovery, rehabilitative, and monitoring resources in our communities for those who



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have committed harm, this Commission should also deeply engage with what structure needs to be in place to ensure that crime victims are supported and able to participate as they determine is appropriate and desired by them in any parole process.

This should, at a minimum, include:

- The rights of a crime victim to be heard in the parole process;
- The process for a victim to be heard, including identification of who is responsible for that notification, and how crime victims will be supported before, during and after the process;
- And the resources necessary to make sure the ability to thoughtfully participate is not an empty promise.

The Commission should ask for and review the policies and processes concerning victim rights in other states that have parole. This should include not only looking at what is contained within any statutes or regulations narrowly related to the parole process, but also the extent to which rights of crime victims are enumerated in a state's statutes or constitutions and the formal processes in place for crime victims to file a complaint and be heard by the state when their rights were violated. MCEDV notes that Resolve Chapter 126 directs the Commission to review Colorado's parole structure and process in particular. Colorado is a state where victim rights are found in the state constitution and further enumerated in lengthy and detailed state statutes. A staffed complaint process exists to review complaints from victims if a state actor failed to uphold their rights, and the state provides full time staff on top of that to support crime victims in the parole process in particular.

### III. Summary

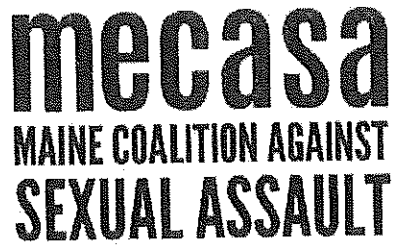
This is an important conversation – one that should be informed by an understanding of the current incarcerated population that would become eligible for parole if this were enacted. It should be informed by an understanding of the support systems and resources available before and after parole is granted and whether those can properly attend to the needs of both the person who was paroled, those they have victimized, and their community.

We appreciate the opportunity to be heard today. Where the recommendations that this Commission might make are currently unknown - and the universe of possibilities quite vast - it is impossible to know what additional information and perspective MCEDV could provide to you today that will ultimately be most helpful. MCEDV participates at statewide tables and in legislative spaces to lift the voices of the survivors we work with. One of our primary roles in that regard is to seek the inclusion of victims' voices in all spaces where decisions about them or that impact them are made. **As this Commission solidifies its recommendations, we ask that you again seek the feedback of victims and those advocates who support them before you finalize those recommendations.**

We also note that not all victims of felony level crimes in Maine have experienced domestic abuse and violence or sexual assault. Their voices are no less important. We hope that this Commission will affirmatively reach out to alert other groups that support crime victims, such as the Maine Chapter for Parents of Murdered Children, about the opportunity to be heard by this Commission.

MCEDV remains an interested community partner in the outcome of your work and hopes you will see us as an ongoing partner and resource in your process.

What social and legal framework will keep adults and children safe in communities where the person known to have done them harm is also residing or likely to return to live? How do we assess and mitigate any continued threat they may pose to victims of their crimes and the safety of the community, while attending to the whole person who has committed the crime? – This is a critical question for us all to wrangle with.



Testimony for the Commission to Examine Reestablishing Parole  
October 7, 2022

No crime, or victim/survivor experience, is the same.

There are sexual assault victims/survivors and advocates in our state who oppose mechanisms to decrease court-imposed incarceration (including parole, expanded good time, supervised community-based confinement, other community deferral/release programs, etc.).

And there are sexual assault victims/survivors and advocates in our state who support additional options to defer, reduce, or eliminate the incarceration of people who have committed sexual violence.

#### MAINE'S SEXUAL ASSAULT SUPPORT CENTERS

Maine's sexual assault support centers were formed based on a peer advocacy model. Survivors of sexual violence who did not have access to the services they needed and who wanted to prevent future violence developed services for one another and for our state. Today, **more than two-thirds of the staff of those agencies report that they have experienced sexual violence** at some point in their lives.

Maine's sexual assault victim advocates spend every day and many nights listening, believing, and supporting survivors, as well as those close to them, on their paths to healing – whether they are on or off the clock. They provide a wide range of services to people of all ages, races, genders, and abilities. They strive to **meet survivors where they are** whether in schools, at homeless shelters, at long-term care facilities, on the streets, or in prisons and jails.

**Last year, our advocates supported 133 incarcerated survivors on more than 500 separate occasions.** We also developed a range of **materials for incarcerated clients** including a Prison Rape Elimination Act rights one-pager which is often inserted into inmate handbooks. We have created healing activity sheets and a mailing activity designed for use between kids and incarcerated loved ones.

We are deeply invested in expanding the paths to justice and healing for survivors - the majority of whom will never choose to engage with the criminal justice system. Last year, an estimated 14,000

people in Maine experienced sexual violence, but only 489 reported to law enforcement. Part of our work to expand paths to justice and healing is our investment in **restorative justice**. Since 2017, MECASA and several sexual assault support centers have worked in partnership with restorative justice providers to inform processes that can be used when sexual harm has been caused.

MECASA provides the "Sexual Assault" **training**, for all new corrections officers through the Basic Corrections Training Program. We also provide a range of materials to the DOC and to county jails, including posters informing incarcerated people about services and reporting options, recorded videos to be used during intake to inform about inmate rights under the Prison Rape Elimination Act (PREA), as well as a three-part training video series for correctional officers.

MECASA and our member centers also provide **technical assistance** to the DOC and jails on topics like: how to coordinate services for incarcerated clients that are confidential, screening for sexual abuse and human trafficking, preventing sexual violence, and developing policies and handbook language about sexual assault.

In our **public policy advocacy**, we care about evidence-based public policy and so for more than two decades we have opposed residency restrictions, opposed expansions to the sex offender registry, and opposed mandatory minimums. We also play a **leadership** role in our field working to start hard conversations – like through asking our staff, the directors of Maine's sexual assault support centers, and allies to read and discuss Danielle Sered's book Until We Reckon last fall and think about how these restorative justice principles can apply to sexual violence work in Maine. These are difficult questions, but we committed to engaging in them.

## POINTS OF COMMON AGREEMENT

In preparation for this meeting and as part of those ongoing conversations about how to approach criminal justice issues generally, we met with the directors of the sexual assault support centers and built, point by point, the following list of shared understanding to help illuminate the way we think about these issues and to inform our recommendations for the Commission. They are as follows:

- We know that people who commit sexual violence harm victims, those close to them, and our communities.
- We know that incarceration harms those who are incarcerated and those close to them.
- We know the vast majority of those committing sexual harms in our state will never be incarcerated.
- We know that there are a wide range of kinds of sexual harm for which individuals are incarcerated including, in no particular order, sex-trafficking, possessing sexually explicit images of children (commonly referred to as child pornography), sexual violence as part of the crime of murder, gross sexual assault, unlawful sexual contact, and more.

- We know, that unlike many crimes, the drivers behind these sexual harm crimes can rarely be primarily attributed to poverty and/or substance use disorder – and so necessitate additional specialized treatment and interventions.
- We know that victims of sexual violence and people who have been incarcerated both have higher rates of suicide and substance use disorder than those who have not been incarcerated and/or have not experienced sexual violence.
- We know the criminal justice system disproportionately impacts marginalized communities, particularly communities of color, under-resourced communities, as well as those impacted by substance use.
- We know that many incarcerated people have complex trauma histories - some including sexual assault – and that incarceration impedes their paths to healing.
- We know that some people experience sexual violence while incarcerated. Female and trans people who are incarcerated have higher rates of sexual victimization before and during incarceration than cis-gender males who are incarcerated.
- We know Maine's jails and prisons are not designed to be aware of and responsive to the needs of those with complex trauma histories – which creates additional challenges for healing and rehabilitation.
- We believe that individuals who have committed sexual harm should take responsibility for the harms they have caused – this sometimes happens in the criminal justice system, but it often does not.
- We know that incarceration can provide safety for victims.
- We know that Maine has the second or third lowest per capita incarceration rate of any state, (though the US has one of the highest rates in the world).
- We know that some criminal justice interventions, including certain lengths of incarceration and/or probation can increase the risk of recidivism for some low to moderate risk people.

## POLICY CONSIDERATIONS

Though this is by no means a comprehensive list, as we think about policies which aim to reduce court-imposed sentences, we would ask that you:

1. **Fully assess the tools currently available** to reduce incarceration (good time, supervised community confinement, any other similar programs), including how they are used and an assessment of their effectiveness.

2. **Center victims/survivors.** Uncertain lengths of incarceration often create great stress for victims/survivors and in particular those who have fears about their safety. I am thinking about a stalking survivor who recently spoke at UNE about the stalking she experienced over several years which made her constantly fearful for her life. She lost her business and moved across the country to escape her stalker. He found her. He is currently incarcerated for ten years, and she has a robust public speaking career, which she knows will need to come to an end when he is released. Survivors sometimes plan their lives and the choices they feel safe making around knowing what to expect from the criminal justice system.

We also are aware of the great burden that participating in parole hearings can have on victims/survivors. MECASA worked with one survivor many years ago where the person who sexually assaulted her was eligible for parole based on a conviction in the early 1970's. She no longer lived in Maine but felt like she had no other choice but to come up from Massachusetts for each hearing as she remained deeply concerned about the risk the individual would pose to community safety. She had to use her vacation time to get out of work and drove up each time to relive her trauma in front of the board. **The burdens on victims must be acknowledged and mitigated** by carefully considering the range of negative impacts on victims/survivors and by carefully considering the appropriate frequency of the opportunities for hearings and supports for survivors among other issues.

The impact on victim/survivors must be carefully examined and law and policies must be put into place to support them. The last parole bill introduced was largely based on the Colorado model, but excluded Colorado's victims' rights provisions, which include a formal complaint process for victims. **Victims' rights must be codified.** At a minimum, the resources and rights for survivors that are needed to support any early release mechanism, include (1) the right and a process for survivors to be heard, (2) how survivors will be supported during and after the process, (3) identification of who is responsible for survivor notification, and (4) a process for how that notification is made.

3. **Make significant additional investments in evidence-based treatment for those who have committed sexual harm.** There are many kinds of sex crimes and many complicated drivers. While obtaining a GED or college degree can significantly reduce the risk of re-offense for some crime categories, this is not enough for those who have committed sexual harm. The standards outlined by the Association for the Treatment and Prevention of Sexual Abuse require **evidence-based assessment** to provide information about recidivism risk, potential risk management strategies, and recommended interventions. Such assessments are critical for the creation of **individualized treatment plans** that target dynamic risk factors (such as self-regulation, sexual self-regulation, social and community supports). This Commission must fully invest in the additional tailored programming, people, training, and tools that are needed to support long-term behavior change for all people incarcerated for committing sexual harm.

We also believe that part of the infrastructure to support behavior change must include **additional programming to make Maine's jails and prisons more trauma-responsive and eliminate additional harm to people who are incarcerated.**



4. Take great care in determining who would be eligible for parole and what assessment tools and process would be used to inform release. If this Commission does decide to focus on crimes with specific victims, we believe it should carefully consider how to create a process (including frequency of application and pre-conditions for application) to **balance the interests of the incarcerated person and the crime victim.**

Risk assessment for people who have committed sexual offenses is complicated. This Commission could consider starting with crimes that do not have a specific victim, such as drug crimes or crimes against property. This could greatly minimize the cost of the program as there would be fewer elements involved.

We also believe that **parole boards should be staffed by people with clinical experience, specifically clinical experience working with those who have caused sexual harm, when the case involves that harm, and with at least one crime victim or victim advocate.**

Additionally, **parole boards need to be given ample evidence about the underlying conviction,** including the specific facts of the case (through Children's Advocacy Center interviews, testimony from trial, victim impact statements, police reports, etc.). They need to hear from the survivors themselves, if the survivor wants to speak with them. Finally, they must have access to clinical assessment tools and narrative reports from any treatment or support programs a person completed.

5. Craft conditions of release that meaningfully address the safety and well-being of victims/survivors and our communities. We must also ensure that victims have access to adequate safety planning by ensuring they have a right to know **when** the person on parole will be released and **where** they will be living and working. They must also have the ability to have **access to the parole officer** to share concerns with the parole officer before release, and the ability to have communications with the parole officer concerns during the period of parole.

As previously noted, the current criminal justice system does not always require accountability by those who have caused harm. But many of the victims/survivors our providers work with share the wish that the person who harmed them would admit to the harm and grapple with the impact of what they did. The lack of this accountability can create a significant barrier to healing.

Survivors also frequently express that their goal in reporting a sexual assault is to **prevent other people from experiencing the harm they did.** They are seeking some assurance that the person who harmed them will not cause more harm to others in the future.

As we make improvements to our criminal justice system, we must **center both safety and accountability.**

6. Ensure we are supporting formerly incarcerated people once they are participating in parole. I am thinking about the compelling story that Dr. Jones shared about the person

who was released on parole and could not get access to an appropriate treatment program. His parole officer found him outside of a school considering re-offending and was able to intervene. That story raised questions for me like how to we ensure in Maine that there are **adequate programs** available as soon as someone is released, and how to be ensure enough **oversight** to prevent harm in the inevitable situations where there could be future harm.

To that end, **we must implement assessment tools to support decision-making about the programming and supports needed in the community**, including monitoring tailored for those who have committed sexual violence. And, we must ensure there are sufficient evidence-based community resources, including treatment for those who those who have committed sexual violence crimes

**There must be community-level monitoring and accountability** so not to place an ongoing burden on victims and to protect the safety of the victim and the community.

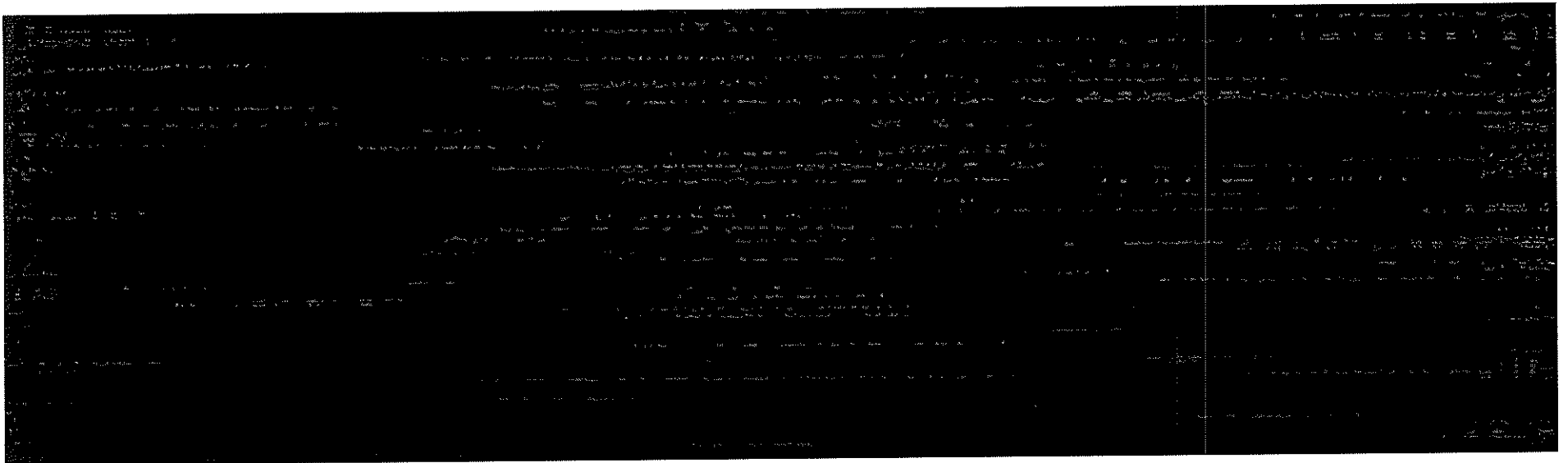
Finally, we must ensure that there are a full range of stakeholders involved, such as judiciary, treatment providers, parole officers, corrections staff, victim advocates, landlords, employers, civic organizations, mentors, and other community supports because **these community partnerships are essential in increasing community safety**.

On behalf of Maine's sexual assault support centers, thank you again for inviting us to join you today and we would be happy to try to address any questions you might have.

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# COMPLICATING THE NARRATIVE: VICTIM AND SURVIVOR VIEWS ON PAROLE

LANE LEWIS ISRAELI



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## INTRODUCTION

- Survivor of Domestic & Sexual Violence
- Bachelor's Degree in Sociology & Religious Studies, Research Focus: Domestic Violence in Religious Contexts
- DV Victim Advocate at Detroit Police Department Precincts
  - Assisted survivors in navigating the criminal & civil legal systems, obtaining necessary social service supports
  - Trained Law Enforcement Officers in Domestic Violence
- Sexual Assault Program Manager at DV SA Service Agency
- Developed & Led an Interdisciplinary Sexual Assault Response Team
- Master's Degree in Conflict Analysis & Resolution, Concentration: Trauma-Informed Restorative Practice (Expanded focus to survivors to many forms of violent crime)
- Strengths-based, trauma-informed, empowerment framework
  - Recognizes a variety of survivor narratives & experiences
  - Prioritizes the empowerment of individual survivors in their healing journey

# CRIME SURVIVORS SPEAK: THE FIRST EVER NATIONAL SURVEY OF VICTIMS' VIEWS ON SAFETY & JUSTICE, 2016

By a 2 to 1 margin, victims prefer that the criminal justice system focus more on rehabilitating people who commit crimes than punishing them.

6 out of 10 victims prefer shorter prison sentences and more spending on prevention and rehabilitation to sentences that keep people in prison for as long as possible.

By a margin of 2 to 1, victims prefer more investment in community supervision, such as probation and parole, to more investment in prisons and jails.

These results were consistent across all demographic groups, including race, gender, age, income and political party affiliation.

They were also consistent between victims of violent crime and victims of nonviolent crime.

Victims in the violent crime category included those who had experienced rape and other forms of sexual assault, stalking, robbery, assault, the murder of a family member, or more than 1 of these crimes.

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## SURVIVOR ACTIVISM & POLICY WORK

### New York:

- People's Campaign for Parole Justice, a statewide grassroots campaign for parole reform
  - 3 Elements
    - Fair & Timely Parole: Ensure meaningful and fair parole hearings for those who are already parole eligible
    - Elder Parole: Allow incarcerated people of 55 and older (served >15 years) an opportunity for parole
    - Fair & Fully Staffed Parole Board: Experience in social work, healthcare, reentry services, and mental health
  - Supported by:
    - New York State Coalition Against Sexual Assault
    - Downstate Coalition for Crime Victims
    - Crime Victims Treatment Center
    - New York City Alliance Against Sexual Assault
    - Albany County Crime Victim & Sexual Violence Center
  - Championed by well-known anti-rape and survivor activists

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## SURVIVOR ACTIVISM & POLICY WORK

- Oregon:
  - 2012 "Oregon Out of Balance" Campaign
    - Created by Call to Safety (formerly the Portland Women's Crisis Line), Oregon Coalition against Domestic and Sexual Violence, & Partnership for Safety & Justice
    - Advocated for a public safety system that holds people appropriately accountable, supports crime survivors, and invests in community-based crime prevention, rather than prisons
  - HB 2002; SB 620A; HB 2172B
    - Ensure success of people on parole by limiting the number and complexity of conditions imposed
    - Direct funds to services for victims, including incarcerated victims and victims on pretrial release
    - Redirect funds to the establishment of a continuum of community-based sanctions, services and programs designed to reduce recidivism and decrease utilization of imprisonment
    - Created in partnership and consultation with people who are justice involved, crime survivors, and the families and communities of both

## RELEVANT REFORMS ACROSS THE COUNTRY

- Alliances between crime victims and survivors, system-impacted individuals, and the communities and policy advocates of both groups have informed and advocated for the reforms that:
  - Improve probation outcomes: reducing prison as a response for technical rule violations, incentivizing rehabilitation, addressing the challenges that fines and fees pose for success ([Texas](#), [Oregon](#), [Florida](#))
  - Establish clear and objective criteria for parole decisions to reduce excessive lengths of stay ([Michigan](#))
  - Allow the state to release seriously ill and medically frail people in state prison on medical parole ([Michigan](#))
  - Expand earned credit for people in prison ([Illinois](#), [Ohio](#), [California](#))
  - Authorize probation instead of incarceration for low-level offenses ([Illinois](#))
  - Authorize parole consideration for people serving sentences for certain felonies ([California](#))



## THE FALSE BINARY BETWEEN SURVIVORS AND THOSE INCARCERATED

- 79% of women in federal and state prisons are survivors of domestic violence and over 60% are survivors of sexual violence before their incarceration.
- Convictions are often the result of survival strategies
- Criminalized survivors of domestic and sexual violence have highlighted the importance of supportive services, such as stable and affordable housing, and counseling, to reduce the number of incarcerated survivors.
- In 2020, the National Network to End Domestic Violence (NNEDV) wrote a list of policy recommendations for the Biden-Harris administration in which they stated:
  - Reducing the number of incarcerated survivors of domestic and sexual violence must be a priority.

## IMAGINING A SURVIVOR-SENSITIVE PAROLE PROCESS: PRIOR TO HEARINGS

- Empowered choices in whether and how they will be notified
  - Mail
  - Phone, Text, Email – Secure Link to updated, informative victim information system
- All notification is early, comprehensive, informative and supportive
- The right (but not the obligation) to be heard in a meaningful way
- Empowered choices in whether and how they will participate
  - Written or recorded statement
  - Re-use of previous written or recorded statement
  - Virtual participation in hearing
  - In-person participation at hearing
  - Who will attend with them as support
- New opportunities to engage supportive services made available at time of notification
- Opportunities for restorative dialogue prior to the hearing
- Sensitive Reviews and Appeals Timeline

# IMAGINING A SURVIVOR-SENSITIVE PAROLE PROCESS: AT HEARINGS

- New Opportunities for Healing
  - Opportunity to hear offender take accountability (one of the only places the criminal legal system where this may happen)
  - Opportunity to witness the growth and transformation of the offender
- Establish a Sense of Safety and Security for Release
  - 95% of offenders will eventually be released
  - Many victims and survivors have only their past experiences to help them determine their level of safety and can only imagine an offender's return to the community based on that experience, seeing the transformation of the person under review may make them feel safer about their eventual release
  - Transparent, evidence-based risk assessment tool specific to domestic and sexual violence offenses to ensure parole does not take place in cases of elevated risk to the survivor's safety

## CONCLUDING STATEMENT:

Commissioners, I took the time to be here today, though I don't have any personal investment in the state of Maine. But, as someone who has worked directly with survivors from marginalized groups, and as a survivor myself, I know how revictimizing it can be when your identity is leveraged to support policies that you would never support yourself.

I recognize that there are some survivors who would not support the reinstatement of parole. But I am here today to complicate the narrative that this is how all survivors feel. To ask you, whatever decision you make, not to use me and others like me to maintain the status quo. But instead to listen to what is being said by me, and more importantly, by survivors all over the country, when we ask for smart and sensitive, rather than tough, justice policies. I hope that the information I have provided will assist you in that work. Thank you so much for your time.

# The Role of Parole in the Criminal Justice System

Presentation for the Maine Commission to Examine  
Reestablishing Parole  
October 2022

Frederic Reamer, Ph.D.  
Professor  
School of Social Work  
Rhode Island College

Rhode Island Parole Board: 1992-2016

# The National Context

Sixteen states have abolished or severely curtailed discretionary parole. The remaining states range from having a system of presumptive parole (when certain conditions are met, release on parole is guaranteed) to having policies and practices that make earning parole release very difficult.

Source: Renaud, J. (2019). Grading the Parole Release Systems of All 50 States. *Prison Policy Initiative*.  
[https://www.prisonpolicy.org/reports/grading\\_parole.html](https://www.prisonpolicy.org/reports/grading_parole.html)

Self-Described  
Conservative  
Florida Criminal  
Justice Reform  
Group (*Right on  
Crime*)  
Favors Reinstating  
Parole

“Risk and cost analysis of re-instating parole deserves consideration, but the benefits of parole are far too great to ignore. A moderate reintroduction of parole is long overdue, and modifying Florida’s truth in sentencing thresholds, even gradually, will provide incentive for productive behavior and supervision.”

Source: Murphy, C. (2022, June). Addressing Florida’s Parole System.

<https://rightoncrime.com/wp-content/uploads/2022/06/2022-06-ROC-AddressingFloridasParoleSystem-ChelseaMurphy-ROC-Version.pdf>

# Principal Arguments Supporting Reinstatement

- Some—albeit not all—reputable empirical research documents lower recidivism rates among parolees compared with offenders released on probation and those who complete their sentences without supervision
- The prospect of a parole hearing provides an incentive for inmates to enroll in rehabilitative and educational programs
- My anecdotal experience over more than a quarter century is that participation on parole increases the likelihood of leading a productive life (family, employment) because of life skills learned on parole and therapeutic gains.
- Parole caseloads are typically smaller than probation caseloads—closer supervision
- Parole supervision is significantly less expensive than incarceration.



# Reinstating Parole: A Multi- State Debate

“We thought we were fighting crime, and it didn’t work,” said David Marsden, a Democratic state senator in Virginia, who has previously introduced bills to restore parole but was blocked by Republican majorities. “But more recently, we’ve stopped trying to teach lessons and started trying to solve problems. People are now more likely to believe that people deserve a second chance.”

Williams, T. (2020, February 13). ‘It Didn’t Work:’ States That Ended Parole for Violent Crimes Are Thinking Again. *New York Times*. <https://www.nytimes.com/2020/02/13/us/parole-virginia.html>

# Prominent Research Studies

- Solomon, A. (2006). Does Parole Supervision Work? Research Findings and Policy Opportunities, American Probation and Parole Association.  
<https://www.urban.org/sites/default/files/publication/50221/1000908-Does-Parole-Supervision-Work-.PDF>
- Ooi, E., & Wang, J. (2022). The Effect of Parole Supervision on Recidivism. NSW Bureau of Crime Statistics and Research.  
<https://www.bocsar.nsw.gov.au/Publications/CJB/2022-Report-Effect-of-parole-supervision-on-recidivism-CJB245.pdf>
- Ostermann, M. Active Supervision and Its Impact Upon Parolee Recidivism Rates. *Crime and Delinquency*, 59(4), 487-509.  
<https://www.ojp.gov/ncjrs/virtual-library/abstracts/active-supervision-and-its-impact-upon-parolee-recidivism-rates>

**Post-Release  
Outcomes: One  
Size Does Not  
Fit All  
The Typology of  
Criminal  
Circumstances  
(Reamer)**

- Crimes of *Desperation*
- Crimes of *Greed, Exploitation, and Opportunism*
- Crimes of *Rage*
- Crimes of *Revenge and Retribution*
- Crimes of *Frolic*
- Crimes of *Addiction*
- Crimes of *Mental Illness*

# Crimes of Desperation

Financial desperation and poverty

White-collar financial desperation

Crimes of fear

Desperate personal circumstances

**Crimes of  
Greed,  
Exploitation,  
and  
Opportunism**

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Financial  
crimes

---

Organized  
crime

---

Gang  
exploitation

---

Sexual  
exploitation



**Crimes  
of  
Rage**

---

Family and relationship  
violence

---

Social violence

---

Workplace violence

---

Stranger rage

# Crimes of Revenge and Retribution

- Family and relationship revenge and retribution
- Acquaintance revenge and retribution
- Coworker revenge and retribution
- Authority figure revenge and retribution

# Crimes of Frolic

- Thrill-seeking behavior
- Entertainment
- Frolic under the influence



# Crimes of Addiction

- Substance abuse
- Pathological gambling

# Crimes of Mental Illness

- Schizophrenia and psychotic disorders
- Mood disorders
- Anxiety disorders
- Paraphilias
- Mental retardation
- Dissociative disorders

# Key Release Criteria

1. Seriousness of offense
2. Insight
3. Victims' testimony
4. Criminal record
5. Program participation
6. Prison discipline
7. Release plan

This  
material is  
drawn  
from:

- Frederic G. Reamer, *On the Parole Board: Reflections on Crime, Punishment, Redemption, and Justice*. New York: Columbia University Press, 2016.
- Frederic G. Reamer, *Criminal Lessons: Case Studies and Commentary on Crime and Justice*. New York: Columbia University Press, 2003.
- Frederic G. Reamer, *Heinous Crime: Cases, Causes, and Consequences*. New York: Columbia University Press, 2005.

**APPENDIX F**  
**Preliminary Findings and Recommendations from the Fourth and  
Fifth Commission Meetings**

## **Arthur Jones:**

### **Findings**

1. Most testimony presented by criminal justice professionals, victim advocates, and victims feels that parole should be re-established in Maine. It should be presumptive and available to all prisoners.
2. Some criminal justice professionals, victims, and victim advocates are concerned about victim services being under the Department of Corrections.
3. Treatment is more important than offenders serving all their time. If offenders serve all their time with no treatment they will most likely commit new crimes once released. Treatment should be mandated by statute by the Department of Corrections.
4. Parole eligibility should be determined by the length of sentences with work and good time credit awarded based on inmate behavior and program participation. Offenders should be required to serve a percentage of their sentence before becoming eligible for parole.
5. Criminal justice professionals, victim advocates, and victims are concerned about the impact on victims if offenders come up for parole each year.
6. Maine Department of Corrections has a Community Release Program which is administrated by Maine Department Corrections employees. There is little or no diversity on the Community Release team.
7. Maine abolished parole in 1976 but still has a Parole Board which considers parole for offenders sentenced before parole being abolished in Maine. There are five members appointed to 4 years terms by Governor and is the under the Department of Corrections. The current Parole Board has no diversity and is all white with one female. It is top-heavy with law enforcement personnel. The terms of all five board members are currently expired.
8. Parolees are supervised by the Maine Department of Probation and Parole Officers, whereas most of them have a law enforcement background but are also trained in casework.
9. There will be cost saving for the state of Maine if parole is reinstated.

### **Recommendations**

1. Parole should be presumptive and available to all prisoners.
2. Parole eligibility should be determined by the length of sentences with work and good time credit awarded based on inmate behavior and program participation. Offenders should be required to serve one-half (1/2) of their sentence before becoming eligible for parole.

3. Maine Department of Corrections should be mandated to provide rehabilitation programs for all inmates, such as drug and alcohol treatment, mental health, and sex offender treatment programs. This will increase public safety when offenders are returned to the community.
4. Victim services should be under the Attorney General's Office with a full-time victim advocate in each county to assist victims.
5. A restorative justice process should be included (and funded!!) as a treatment option within the Department of Corrections and the parole process. This means that both victims and those who have harmed them can have their families and support people with them in the RJ process. This is crucial for enhancing support / promoting healing / reducing stigma, etc!
6. When parole is denied there should be a presumptive schedule for future parole eligibility. It should be based on the category of offense and the original sentence. Presumptive terms are established by the parole board which must have annual open public hearings to allow public input before the presumptive terms are adopted. This way victims will have input and not be impacted by parole hearings every year.
7. Maine should have a parole system that is separate and autonomous from the Department of Corrections. It should be diverse professionals appointed by the Governor with the advice and consent of the Maine State Senate. They should be focused on patrolling inmates who have demonstrated good behavior, addressed the problems related to their criminal behavior, and earned an opportunity to serve the remainder of their sentence in the community under parole supervision by participating in programs related to their crime.
8. The Study Commission should consult the Prison Policy Institute and Rubina Institute reports on existing parole structures for guidelines to consider in crafting Maine parole policy.
9. Parole officers should be under the Parole Board instead of the Department of Corrections. They should be trained in casework, evidence-based supervision methods, and graduated sanctions as opposed to pro-law enforcement. Cost savings by reinstating parole can be used for treatment which increases public safety.

### Whitney Parrish:

1. Parole should be designed for equitable access and availability. As stated by presenters and testers, a parole policy can provide a mechanism to create a list of expectations (personal transformation, program participation, etc.) for individuals to follow during their time of incarceration. The parole board would retain the ability to delineate in what ways a person has failed to meet expectations set forth and give specific ways an incarcerated person can engage to attain parole. This can also create incentive for the Department of Corrections to continue building robust and transformative programming that prepares individuals for successful reintegration.

2. Eligibility requirements for parole should prioritize behavior and personal transformation during the time of an incarcerated person's sentence. Focusing solely or too heavily on the underlying offense does not necessarily ensure safety.

3. Victims/survivors should continue to be consulted about how their engagement in the process should happen. As we've learned, many people who have experienced harm through crime prefer (and demand) a supportive, instead of punitive, approach to addressing crime and actions that can cause serious harm. As we have heard time and again, including from survivor advocacy groups, "hurt people hurt people." Not all victims/survivors are the same, though we all agree that we want to make sure people stay safe. Reestablishing parole is one way we can help foster intentional safety for all parties.

a. Continue investigating a restorative justice framework that includes voluntary opportunities for victim/survivor involvement, including meeting/conferencing with the person who has caused them harm if wanted. This could be integrated into treatment programming for residents.

4. Per recommendations from Dr. Reamer and others, the parole board should comprise a diverse set of individuals from varying disciplines and with varied experiences and backgrounds. This could include, but is not limited to, individuals working in mental health (psychiatry, psychology) substance use (LADC, etc.), law enforcement, community-based reentry with a focus on restorative practices, and social work, as well as individuals who have been previously incarcerated and who come from different racial, economic, and other backgrounds and experiences.

5. The above would require, based on information gathered, a full-time, independent parole board. Appointments should happen consistently based on the appointment schedule and professional expertise needed, and seek to accomplish a diverse board, as stated above.

6. Extreme care should be taken when looking at risk assessment tools, which have been known historically to perpetuate disparities regarding access to alternative programs or release.



**Natasha Irving:**

1. Second chance legislation for those serving greater than 10-15 year sentences for crimes committed before the age of 26.
2. Expansion of SCC, incorporating earlier eligibility and due process if/when certain criteria is met.
3. Incorporation of restorative justice principles into parole/SCC. Use of RJ when victim's and offenders are willing, use of other restorative practices when offender is willing but victim is not.
4. Bolstering victim rights in tandem with parole/SCC expansion, including restorative practices.

As a representative of the MPA, I am not endorsing all of these points for adoption into the report, but I am interested in having a meaningful discussion regarding these points.

**Rep. Evangelos:**

**Findings:**

Maine's criminal justice system is broken, all the way up to inconsistent and very harsh sentencing, a malicious post conviction appeal process, a constitutionally deficient and broken indigent legal defense system, and upon conviction and entering prison, no possibility of parole, regardless of what someone does to redeem themselves. Even the current Chair of the existing Parole Board, dominated by law enforcement and prosecutors, admitted the system needs structural change, replacing the inherently biased system with independent appointments not connected to the criminal justice system or the Dept of Corrections. I call the current system "Killing Hope".

The refusal by the Department of Corrections to allow incarcerated individuals to participate in our hearings via Zoom is an unjustified obstruction. The prisons most certainly have the equipment and capability, contrary to what we were told. Additionally, the claim that the Study Commission's visits to the prisons would be 'disruptive and require a general lockdown' is belied by the fact that the Maine State Prison holds special programs every month without any disruptions or lockdowns. This year, I attended Martin Luther King Day celebration, Juneteenth Celebration, and numerous other irregular prison meetings. In fact, today, October 19, I am attending a NAACP meeting called by Deputy Commissioner Thornell....no lockdowns, no disruptions, just the normal daily operation of the prison which apparently is enforcing a double standard against the Parole Study Commission in order to silence the voices of the incarcerated.

Information the Study Commission received appears to indicate that the women at the Windham Prison have been totally silenced as to any participation in our work.

Information I have received from the men in the Earned Living Unit at the Maine State Prison indicate they did in fact watch the Study Commissions hearings via Zoom but were petrified of retribution if they raised their hand to testify.

Sentences imposed for life in prison without parole are cruel and unusual punishment. Parole eligibility for all will rectify this.

**Recommendations:**

Qualifying for Parole should be presumptive, subject to final determination of an independent Parole Board. This means all incarcerated individuals will be able to apply for parole after meeting the minimum requirements.

New Parole Board should be independent of the Dept. of Corrections.

The amended bill I submitted, LD-842, contained the structure of the new Parole Board, as follows:

The Governor shall appoint as the 7 members of the board persons who: 1. Citizens and residents. Are citizens and residents of the State; and 2. Training or experience. Have special training or experience in law, sociology, psychology or related branches of social science. as follows: A. One member must be a psychiatrist; B. One member must be a psychologist; C. One member must be a representative of a statewide organization of defense attorneys who is an attorney admitted to practice in this State and in good standing; D. One member must be a prosecutor; E. One member must be professionally trained in correctional work or in some closely related general field such as social work; F. One member must be a law enforcement officer; and G. One member must be a representative of a statewide civil liberties organization.

If the Parole Board denies an application after a hearing, applicant may reapply after 1 year. People released on Parole will complete the remainder of their sentence on the outside, under the custody and care of the Probation/Parole Dept.

While this is open for debate/discussion, the structure of LD-842 is a good basis for time limit determinations: The person's sentence was imprisonment for life or for any term of not less than 25 years and the person has served at least 20 years of that sentence, or the person's sentence was imprisonment for a term of at least one year to 25 years and the person served not less than 1/2 of the sentence of imprisonment or 1/2 of the most recent sentence imposed by the court, whichever is greater.

Generally, I support the structure of LD-842, including the administrative release guidelines, revocation procedures, and final release guidelines.

Parole Hearing and granting of Parole as follows:

Parole hearing. The board shall hold a hearing, which must be video recorded, to review an application for parole. The board shall use its administrative release guidelines and any other information it determines relevant in its review. A person seeking parole must be represented by legal counsel. The board may hear testimony from both the person seeking parole and any victims, and the board may hear their testimony separately.

Parole granted. If after a hearing under subsection 3 the board grants parole, the board shall impose any conditions it determines appropriate to mitigate the risk of the person's again violating the law.

The new Parole Board and parole officers can be funded out of savings achieved from Maine's 1/2 Billion dollar corrections budget.

**Sen. Cyrway:**

1. Parole was dismantled due to Cost , Resources, and run poorly as well as traumatic to the victims during public hearings. We should compare it to putting it back in place.
2. From discussions from the last Commission meeting one of our speakers had mentioned without the Resources that it would be pointless to start a Parole program. So we need to know what we have in place or our needs of Resources to meet the needs to put Parole in place as well as the cost?
3. How many Parole Officers, cars, and added equipment as well as training should be added and the cost?
4. What would be needed for Training. I am hoping it would not just be counselors. This would not be a safe type system to deal with. Criteria is important as to their job description.
5. Seems like we heard about Parole with cost and running the program not being included in our conversations. This was told to us that it will be very expensive. Cutting costs of the Correctional Facility would be according to how successful the parole program would be.
6. I feel that Parole is already incorporated in the system we currently have and many changes would be difficult to separate as we have it set up now.
7. Safety first and certainly they should earn to get out not automatically be eligible for Parole.
8. Many figures given were designed from different States. For example Crime has risen in Colorado and drug use as well as opioid deaths. No different than Maine. I have not seen the figures that were stated to compare apples to apples.
9. Not in favor of adding Parole but would be in favor to enhance what we have currently in place and have more resources to give more opportunity for success to release in a safe and successful manner into the community.

**William Stokes:**

The first issue that needs to be addressed is what is the target audience for parole, should it be re-enacted? Is parole going to be for everyone? How will that intersect with people on probation? Is it targeted to people with very long sentences only? Will it only be available to those who are ineligible for probation, like people convicted of murder?

That issue has to be addressed early because how extensive parole availability is will decide how extensive the reworking of the criminal code will need to be. Parole may affect whether probation stays as it is. It may impact good time laws. It may impact how courts decide what sentence to impose in the first place. Is there going to be presumptive parole, meaning everyone will be presumed to be released on parole at their first eligibility date unless the parole board nixes it? Are there any types of cases where parole would not be available at all? And who decides that?

Reestablishing parole is a major policy decision for the Legislature and Governor. It is not a mere tweaking of the criminal code. Depending on how widely available it is proposed to be, it may entail an equally major revamping of the criminal code and its sentencing provisions.

## **Maine Department of Corrections – Commissioner Liberty**

The MDOC believes that there is already a system in place to allow rehabilitated residents to release to the community prior to their sentence ending, the Supervised Community Confinement Program (SCCP).

SCCP offers checks and balances to ensure both public safety and resident success. Throughout the course of the Commission's meetings the MDOC has heard a fair critique of SCCP, that it neglects rehabilitated clients who are serving long sentences. To that end, the MDOC has had preliminary conversations with the Governor's Office about expanding SCCP requirements to better serve a broader group of rehabilitated residents, even those serving long sentences.

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**Commission to Examine Reestablishing Parole  
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**To:** Commission to Examine Reestablishing Parole

**From:** Legislative Staff

**Date:** November 22, 2022

**Re: Findings and Recommendations Discussed at the Fourth Meeting**

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At the end of our fourth commission meeting on November 16<sup>th</sup>, the chairs asked that legislative staff compile a list of the top-line findings and recommendations that were covered in the commission's discussion at that meeting. The commission's discussion at the fourth meeting covered a wide range of issues relevant to parole and the commission's duties as set out in its establishing legislation, PL 2021, Chapter 126. The list requested by the chairs is provided below. It is based on the review of our notes and meeting footage, and has been edited based on input from the chairs prior to providing it to the entire commission.

As discussed at our fourth meeting, the duties set out in the commission's establishing legislation are as follows:

**Sec. 5. Duties. Resolved:** That the commission shall examine parole as it currently operates in this State and in other states, with a specific focus on the parole law in Colorado, the benefits and drawbacks of parole, different models of parole, how parole fits in with the overall framework of the Maine Criminal Code, the effect of parole on parolees, the costs and savings of instituting parole and the elements of a plan to implement parole.

The list below will begin with findings, which are statements of factual agreement, followed by recommendations directly responsive to the duties described above.

**This document is meant to guide the commission's work at its final meeting on November 29<sup>th</sup>, 2022. The findings and recommendations below are not in their final form. Additional findings and recommendations may also be discussed at that meeting. The final versions of the findings and recommendations to be included in the report will be determined by votes taken by the commission members at that meeting.**

### Findings

- **Disparities in the racial demographics between those incarcerated in Maine and the general population of the State are staggering.** The disparities are clearly represented in the Maine Department of Corrections Year-End Adult Data Reports from 2021 and 2020. Those disparities intersect with racial disparities in sentence lengths that negatively impact equal access to existing programs like the Supervised Community Confinement Program. The disparities in access to the Supervised Community Confinement Program, as compared to the total prison population in Maine, can be seen in the Maine Department of Corrections Monthly Data Reports for the year 2022.
- **Violent crime is ultimately a public health issue and can be cyclical in nature.** The circumstances that lead a person to commit a violent crime create similar circumstances for the victims of that crime, which can then lead to victims committing a violent crime in the future. This is why a majority of people who are incarcerated are also survivors of violent crimes themselves, and why it is crucial that the criminal justice system focuses on providing both rehabilitation for offenders and support services for victims.
- **The success of any program established to address disparities in the criminal justice system will depend on ensuring adequate resources are available for offenders, victims, and communities to support people in rehabilitation, restorative justice, and avoiding interactions with the criminal justice system in the first place.** In order for the programs to succeed, the Legislature must allocate adequate funding to support these resources.

- **The success of any program established to address disparities in the criminal justice system will also require that the Legislature carefully consider reforms to other components of the criminal justice system, as no one component stands in isolation.** For example, the Legislature will have to carefully consider reforms to mandatory fines and penalties, mandatory minimum sentences, and criminal sentencing in-general.

### Recommendations

Based on the findings provided above and the work conducted by the commission over the course of five meetings, the commission provides the following broad recommendations that the Legislature should carefully consider when developing any legislative proposal to reestablish parole in Maine.

1. **Carefully consider the types of sentences that may be eligible for parole.** The commission recommends that the Legislature begins with a further examination of LD 842 and all its accompanying papers from the First Regular Session of the 130<sup>th</sup> Legislature (Appendix \_\_\_\_). That bill would have made all criminal sentences for imprisonment eligible for parole. Some commission members expressed concern about making parole available to all sentences and suggested that the Legislature carefully consider excluding certain types of sentences, such as repeat offenders in cases of child sexual exploitation.
2. **Include specific criteria to evaluate when a person may become eligible for a parole hearing and for granting parole.** The Legislature must establish criteria that ensures parole is available to incarcerated people serving sentences of more than 20 years. This recommendation remains key to effectively addressing the disparate demographics identified in the findings of this report and providing hope to those serving long sentences. The criteria used to determine hearing eligibility and for granting parole must consider and mitigate the historical bias present in traditional risk assessment models. For incarcerated people suffering from diagnosed mental illness, the criteria must include metrics based upon the progress of their treatment.

Additionally, calculations of eligibility for a parole hearing should be based solely upon the unsuspended portion of that person's sentence. For example, if a person is sentenced to 20 years unsuspended and 20 years suspended, for a total sentence of 40 years, that person's eligibility for a parole hearing would be calculated on the time that remains on only the unsuspended portion of that person's sentence.

3. **Create a parole hearing, review, and appeals process conducted by a parole board independent of the Maine Department of Corrections, and comprised of members representing a diverse set of backgrounds and qualifications who are appointed to staggered terms subject to confirmation by the Senate.** A proposed amendment to LD 842 from the First Regular Session of the 130<sup>th</sup> Legislature (Appendix \_\_\_\_ ) provides a starting point for the makeup of parole board members. Members of this commission also put forward their own recommendations for the makeup of the parole board, found in Appendix \_\_\_\_ . The hearing, review, and appeals process must provide an outline of each step and provide each applicant for parole with the right to legal representation throughout the process.
4. **Ensure that victims have a right to be involved in the parole hearing, review, and appeals process.** The commission received comprehensive presentations during its second meeting from organizations that work in the field of victims' rights. (Appendices \_\_\_\_ to \_\_\_\_ ) The Maine Coalition Against Sexual

Assault outlined several policy considerations the commission feels are absolutely essential to include in any legislative proposal to reestablish parole. (Appendix \_\_\_)

- **Provide baseline funding for the Maine Criminal Justice Sentencing Institute.** Under Title 4, Section 454, the Maine Criminal Justice Sentencing Institute was created “to provide a 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 Chief Justice of the Supreme Judicial Court may invite.” When sufficient funding is provided by the Legislature “the institute shall meet, at the call of the Chief Justice of the Supreme Judicial Court, 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.”

The commission believes that the Maine Criminal Justice Sentencing Institute is an ideal forum to consider the reforms to criminal sentencing addressed in its findings above and recommends that the Legislature appropriate baseline funding in the biennial budget necessary for the institute to meet every two years. The commission further recommends that the Legislature amend the Maine Criminal Justice Sentencing Institute statute to improve the language and syntax of the text for clarity; codify more specifically the Institute's processes or procedures, including requirements for public notice, public input, and a biennial report to the Legislature; and to direct the appointment of participants with a broader set of experiences, including those with expertise in sentencing reform and restorative justice.

- **Enhance and amend existing programs to assist in achieving the goals of reestablishing parole.** Many commission members expressed concerns that existing aspects of the criminal justice system will likely need updating to properly function alongside parole. Some members have also discussed the potential for pre-existing programs to be modified in order to achieve many of the goals advanced by proponents of parole. In particular, some members recommended considering modifications to Supervised Community Confinement that create eligibility for those serving longer sentences sooner than is currently provided for under the program. As touched upon in the commission's findings, no component of the criminal justice system stands in isolation of the others. Any proposal to reestablish parole must consider how it will function in concert with Supervised Community Confinement, probation, or other programs.

**APPENDIX G**  
**Supervised Community Confinement Program News Clippings and**  
**Maine Corrections Summit Report**

# Maine grapples with ways to ease prison overcrowding

DOCTORS SUNDAY GLOBE

JAN 13 1991

By Denise Goodman  
SPECIAL TO THE GLOBE

AUGUSTA, Maine — Last week, Corrections Commissioner Donald Allen had to leave intensive deliberations at the State House on Maine's budget crisis to talk to inmates at the overcrowded maximum-security prison in Thomaston.

"The inmates are very confused by the process. . . It's created an air of uncertainty," Allen said afterward.

According to Allen, some inmates thought they might be released from the state prison, designed to hold 400 inmates but now housing 470.

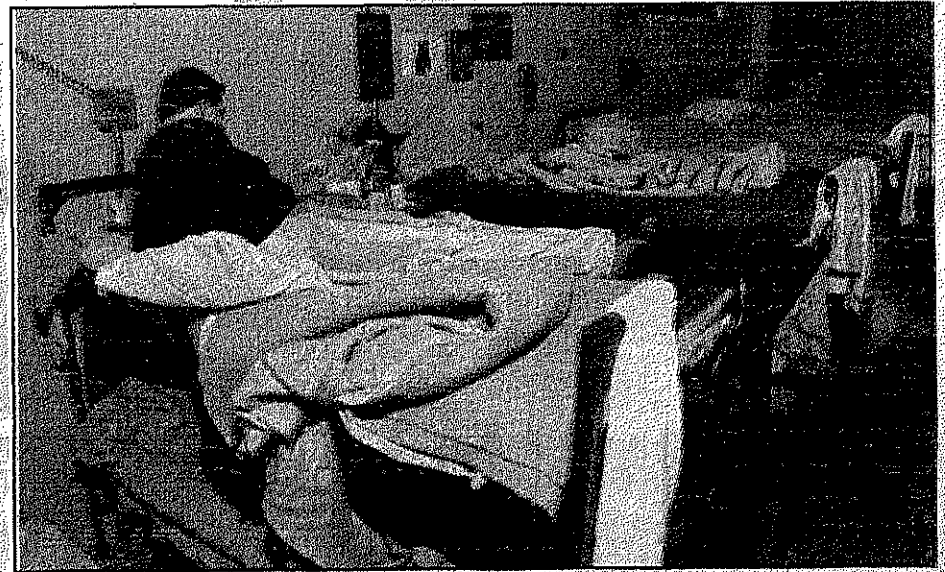
The prisoners were reacting to a proposal for sentence commutations to ease overcrowding at Thomaston — already the focus of one federal court suit and, in light of strapped state finances, likely to get worse, he said.

The medium-security facility in Windham,

with a capacity for 423 inmates, now houses 560. Voters have rejected two successive bond issues for more prison space for medium- and maximum-security prisoners. And a 100-bed maximum-security facility due to open in about a year in Warren will offer scant relief if projected budget cuts in the next two years close scattered minimum-security and pre-release facilities and pour nearly 500 more inmates into already jammed prisons in Thomaston and Windham.

The Criminal Justice Committee of the Maine Council of Churches has asked the governor and the Legislature's Appropriations Committee to consider commuting sentences of most state inmates who have completed 80 percent of their prison terms. Neither the governor nor the committee has responded officially to the suggestion, but Allen said he went to Thomaston to tell inmates that it is not likely to be adopted.

PRISON'S, Page 32



GLOBE PHOTO / MERRY FARNUM

Bunk beds crowd an annex at Maine's maximum security prison in Thomaston.

# Maine grapples with the problems of prison crowding

## ■ PRISONS

Continued from Page 29

Craig McEwen, criminal justice committee chairman and a sociology professor at Bowdoin College, said that while the proposal may seem drastic, it at least would allow the state "to maintain control over its own destiny." Some worry that the alternative, as the state tries to close a projected \$750 million budget gap over the next two years, is more litigation that could result in federal intervention, including early inmate releases.

A Maine Civil Liberties Union suit, charging that overcrowding in specific sections of the Thomaston prison violates constitutional guarantees against cruel and unusual punishment, is not likely to end in any wholesale federal intervention, according to Sally Sutton, the organization's executive director.

But, she added, "if the Legislature and governor aren't responsive to meeting their responsibilities, then we will go to court again." McEwen said sending 500 more inmates to Thomaston and Windham prisons would be "devastating. . . I could well imagine further litigation" because the move would result in overcrowding, understaffing and warehousing.

Even Allen conceded that with defeat of the prison bond issues and sharp budget cuts over the next two years, the possibility of federal intervention "becomes more realistic."

Already, some criminal suspects and some people convicted of crimes are free because of the overcrowded prisons, according to Janet Mills, district attorney for three Maine counties and president of the Maine Prosecutors' Association.

Mills said she and her colleagues are declining to prosecute some suspects and judges are handing down lighter sentences in some nonviolent crime cases because cells are full.

"If the sentencing range for burglary is zero to five years, and we have a fourth-offense burglar, we might say he's a nonviolent offender so we have to give him a break today. . . If someone burglarizes your house tonight, you're going to want that person to go away for at least five years. I'm going to have to say, 'I'm sorry, but he really didn't hurt you. . . and there's no room in the inn,'" Mills said.

"If you've got one cell and two possible candidates - one convicted of rape and the other of burglary - certainly you would want to put the more violent person in it," agreed Carl Andrews, chief deputy in the Penobscot County Sheriff's Office.

McEwen said across-the-board commutations make more sense than the selective prosecution and sentencing decisions already being made. "It's irrational and unreasonable to have a policy in which some people aren't punished appropriately while others spend long

times taking up scarce space," he said.

Many law enforcement officials say that the corrections dilemma is partly rooted in a kind of voter hypocrisy, charging that the public wants them to be tough on criminals, but will not ante up the money for more cells to house them.

Beyond that, some say, the first corrections spending cuts in Gov. John R. McKernan's unilateral executive order to immediately trim \$40 million in state spending may only make matters worse. Those cuts, contained in McKernan's Jan. 4 order, include eliminating 20 probation caseworkers, effectively erasing intensive supervision of probationers and cutting out most sex-offender and substance-abuse programs for probationers.

Those programs are "vital in this day and age," Mills said, noting that about one-third of the maximum and medium security prison inmates are there for sex offenses and that "probably 90 percent of all our cases are drug and alcohol-related." What's being cut, McEwen said, "are the most cost-effective programs and the ones that have some hope of preventing future crimes."

Kennebec County Sheriff Frank Hackett agreed with that contention. An alternative sentencing program he launched for first-time drunken driving offenders - weekend incarceration at a local school with 16 hours of community service and eight hours of substance abuse education - reduced repeat offenses among 700 participants from the usual 33 percent to only 5 percent, Hackett said.

"If we find a way to divert first offenders and keep them from being second offenders, that will free up those valuable beds," he said, adding that without education programs to reduce recidivism, "you're just adding grease to the revolving door."

Allen acknowledges that there is little support for resuming a parole system, abandoned in Maine in 1976.

Mills said parole "encourages game-playing. . . It rewards people who can get along with guards even though they would be very violent offenders on the outside."

And with support services for released inmates being cut or abolished, parole would simply "become an economic Band-Aid for an already antiquated system," said Michael Chitwood, Portland Police Chief.

Meanwhile, the very economic woes that are feeding the state's money crisis are likely to produce more candidates for jail and prison cells, predicted Bangor Police Chief Richard Stockford.

"My gut feeling as a police officer is that if the economy is truly worsening, we're probably going to need more corrections services rather than less. . . We're going to get more calls, handle more complaints and probably arrest more people," he said.



## Prison at home

Gov. John McKernan should give serious consideration to a plan that would ease some of the overcrowding in Maine's prisons and save the state some money in the long term. The Supervised Community Confinement program would reduce the strain on the prison system and lower costs by placing electronic monitoring devices on minimum-security prisoners, who would serve out their sentences at home.

Electronic monitoring has been used extensively in other states for five or six years as a humane way to deal with the rapidly increasing number of prisoners, without spending hundreds of millions of dollars on new prisons. Though the legalities of assigning Maine prisoners to this type of incarceration after already sentencing them to the more traditional lock-up aren't clear, Gov. McKernan should investigate the program.

Corrections Commissioner Donald Allen stressed that only minimum-security prisoners would be eligible for the program, but that the savings to the state would be considerable. Allen estimates

that monitoring would cost \$10 to \$15 per day, compared with the \$55 per day incarceration costs. With the corrections budget for the next biennium dangerously low, the program could be a necessary tool in the next few years.

One of the states that most frequently uses the monitoring system, Florida, has found it to be a cost-effective way for prisoners to put in their time. It makes probation more effective. Florida electronically monitored about 2,500 people last year and is expanding its program. Proponents of electronic monitoring also note that prisoners are capable of holding down a job and of supporting a family while under this type of surveillance, allowing them to be contributing members of the state, rather than a burden, while they serve their time.

Whether this will work in Maine — indeed, as Superior Court Chief Justice Thomas E. Delahanty points out, whether it is constitutionally legal — isn't clear yet. Under the current economy and condition of Maine's prisons, however, it's an idea worth a second look.

# Corrections chief criticizes cuts

Commissioner Donald L. Allen tells lawmakers the system is already dangerously crowded.

By PAUL CARRIER  
Staff Writer

AUGUSTA — Gov. John R. McKernan's corrections chief told lawmakers Thursday the Legislature would be "flirting with potential danger" if it approved spending cuts proposed by the governor, including the closing of several prisons over the next two years.

Commissioner Donald L. Allen said the prison system, already dan-

*prisons*  
gerously crowded, "has the potential to blow up" if the state closes pre-release centers in Bangor and Hallowell July 1 and shuts down the Charleston Correctional Facility and the Downeast Correctional Facility in Bucks Harbor a year later.

McKernan included those cuts in his proposed two-year budget to help eliminate a projected shortfall of more than \$930 million throughout state government.

The Department of Corrections also would lose eight probation officers next year, but would regain one of them and reopen the Hallowell pre-release center the following year.

Allen's strongly worded reservations about his boss's budget rekin-

dled Democratic speculation that the Republican governor has proposed unacceptable cuts to force the Legislature into accepting higher taxes.

The gloomy forecast, which Allen delivered to the Appropriations Committee during its fourth day of



*"I didn't say it is chaos. I said it has the potential to blow up."*

Donald L. Allen, corrections commissioner, describing the danger of crowded prisons

department-by-department budget reviews, also triggered bipartisan predictions that the Legislature will move quickly to keep selected criminals out of prison and speed up the release of others in the face of budget cuts and repeated public rejection of prison bond issues.

"I think we need a wholesale revamping of corrections policy," said Rep. Judith C. Foss, R-Yarmouth, a member of the Appropriations Committee.

Sen. Joseph C. Brannigan, D-Portland, another member of the committee, offered a similar view amid signs that the Legislature will consider several ways of relieving prison crowding.

The list of options may include restoring parole to release deserving prisoners sooner, eliminating mandatory minimum sentences, reducing maximum sentences and expanding alternative programs that allow criminals to serve their time outside of prison.

Please see PRISONS, Page 2C

# PRISONS

Continued from Page 1C

David Plimpton of the Maine Council of Churches endorsed all of those changes Thursday, telling the Appropriations Committee the Legislature should implement such reforms and the governor should commute sentences of criminals who "pose no physical threat to society."

Plimpton charged the McKernan administration has "abdicated its responsibility for corrections policy," a view shared by some lawmakers.

"Of all the budgets we've heard so far, yours is the one that's least acceptable," Brannigan told Allen shortly after the commissioner testified that he would have to jam inmates into the overcrowded Maine State Prison, the Maine Correctional Center and facilities under construction if other prisons are closed.

Noting that the state already has more than 1,600 prisoners in a system designed to hold fewer than 1,200, Allen said officials project the Department of Corrections will be short 900 beds by 1995 even with the addition of 186 scheduled beds.

The closing of prisons in Charleston, Bucks Harbor and Bangor would boost the total shortfall to over 1,200 beds in four years.

Allen also said the department faces cuts in the number of probation officers at a time when their caseload is growing by 1,000 people every year.

He said probation officers working with adults should handle no more than 75 cases each, but average 145. Juvenile officers should tackle 25 to 30 cases apiece, but have 66 on average.

Rep. Lorraine N. Chonko, D-Topsham, House chairwoman of the joint Appropriations Committee, asked Allen to meet with the Corrections Committee in a search for ways to cut the prison population.

While there is no guarantee Democrats in the Legislature will try to restore all the prison cuts proposed by McKernan, Democratic

lawmakers said Thursday the recommended cuts are so severe the Corrections Department budget is, as one put it, "dead on arrival."

"Obviously, based on what you've said, this (budget) is unrealistic," Chonko told Allen, who described McKernan's package as "the best we could do" with available funds.

"Is there really any sense in plowing through this when you tell us (the end result) is chaos?" Brannigan asked Allen after the commissioner said the cuts would exacerbate overcrowding and leave already

overworked probation officers worse off than they are now.

"I didn't say it is chaos," Allen replied. "I said it has the potential to blow up."

After several hours of testimony from private agencies that provide services to the prison system and face cuts of their own, Allen reiterated that he could live with McKernan's proposed budget, but the price would be painfully high.

"Not only will we lose our ability to pull the rabbit out of the hat, but we'll lose the hat as well," he said.

## **Maine Department of Corrections**

**RULE TITLE OR SUBJECT:** Policy 25.3.3 Supervised Community Confinement

**PROPOSED RULE NUMBER:** 93-P66

**CONCISE SUMMARY:** Pursuant to Title 34-A, M.R.S.A., Section 3036-A, the Commissioner of Corrections has developed policy, procedures and rules establishing and governing a Supervised Community Confinement Program as a part of the Department's existing pre-release system, for certain prisoners committed to the Department of Corrections. This program will promote the integration of prisoners in the community, while providing more supervision than regular probation. The place of confinement will be in the community, rather than in a correctional facility.

**THIS RULE WILL NOT HAVE A FISCAL IMPACT ON MUNICIPALITIES**

**STATUTORY AUTHORITY:** Title 34-A M.R.S.A. Section 3036-A

**PUBLIC HEARING:** 9:30 am, Central Maine Pre-Release Center Conference Room, April 13, 1993, Hallowell, Maine.

**DEADLINE FOR COMMENTS:** April 23, 1993.

**telephone: 287-3461 or 1-800-451-9800**

**Maine Department of Corrections**

**CHAPTER NUMBER AND TITLE: Policy 25.3.4**

**Supervised Community Confinement**

**ADOPTED RULE NUMBER: 93-241**

**CONCISE SUMMARY: Pursuant to Title 34-A, M.R.S.A., Section 3036-A, the Commissioner of Corrections has developed policy, procedures and rules establishing and governing a Supervised Community Confinement Program as a part of the Department's existing pre-release system, for certain prisoners committed to the Department of Corrections.**

**This program will promote the integration of prisoners in the community, while providing more supervision than regular probation. The place of confinement will be in the community, rather than in a correctional facility.**

**EFFECTIVE DATE: July 17, 1993**

**AGENCY CONTACT PERSON: A.L. Carlisle, Associate Commissioner, Maine Department of Corrections, Station #111, Augusta, Maine 04333; telephone: (207) 287-2711**

(207)287-2750

## Maine Department of Corrections

**RULE TITLE OR SUBJECT:** Emergency Amendment to 25.3.4 Supervised Community Confinement adopted July 12, 1993

**ADOPTED EMERGENCY RULE NUMBER:** 94-8

**CONCISE SUMMARY:** On July 12, 1993 the Commissioner of Corrections adopted rule pursuant to Title 34-A, MRSA, Section 3036-A, governing a Supervised Community Confinement Program as a part of the Department's existing pre-release system for certain prisoners committed to the Department of Corrections. Pursuant to these rules, offenders sentenced to the Intensive Supervision Program were not eligible to participate in the Supervised Community Confinement Program. As a result of budget cut, Probation Officers were laid off putting the Intensive Supervision Program on hold. Adoption of this proposed emergency rule would amend the Supervised Community Confinement Program making those offenders already sentenced by the court to ISP, eligible to participate in the Supervised Community Confinement Program.

**EFFECTIVE DATE:** January 11, 1994

**AGENCY CONTACT PERSON:** A.L. Carlisle, Associate Commissioner, Station #111, State Office Building, Augusta, Maine 04333; (207)287-2711

## Freeing up to 150 inmates proposed

### Prisoners would be supervised at home

AUGUSTA (AP) — Gov. John R. McKernan is considering a plan that would allow between 100 and 150 minimum-security inmates to be released early and serve up to a year of their sentences at home under strict supervision.

The governor has made no decision on whether to support the proposal advanced by Corrections Commissioner Donald Allen, McKernan's press

secretary, Willis Lyford, said Friday.

Under the proposed Supervised Community Confinement program, selected inmates would be kept under close supervision and required to wear electronic monitoring devices.

The program would cost about \$10 to \$15 per inmate per day, in contrast to the \$55-a-day cost of incarceration, Allen said.

The cost of buying or leasing an estimated \$500,000 worth of electronic and computer gear could be passed on to the prisoners, and hiring an additional five probation officers to supervise

the inmates would cost about \$200,000 a year, Allen said.

The proposed program is similar to the existing intensive supervision program, although participants in that program are sentenced directly by the courts while the Corrections Department alone would control the new program.

But "this is not intensive supervision," which can have "more dangerous type offenders in it," Allen said.

The proposal won immediate expressions of support from members of the Legislature's

See GOVERNOR on Page 4

ings several weeks ago. said Carpenter.

## Governor studying plan to free inmates

● from page 1

corrections committee, who viewed it as a way to cut prison costs while promoting inmate rehabilitation.

"I'd latch right onto it," said Sen. Beverly Miner Bustin, D-Augusta, who co-chairs the panel.

But Superior Court Chief Justice Thomas E. Delahanty II foresaw potential "constitutional problems" with the proposal.

It "appears to me to be another unique attempt to deal with the overcrowding situation they have and a backhanded attempt to institute parole," Delahanty said. Parole was abolished in Maine in the 1970s.



# Lengthen the reins to ease crowding

● A proposal to let minimum security prisoners serve their last year at home with electronic monitoring can work.

**M**aine faces an incarceration implosion. With a design capacity of around 1,200 prisoners in the state system, we currently have nearly 1,600.

We're facing a collapse of our corrections system unless we take some immediate and creative moves to lessen the crowding while conserving badly needed cash.

Fortunately, state Corrections Commissioner Donald Allen has come up with a highly creative proposal with real potential: "supervised community confinement" — letting 100 to 150 minimum security prisoners out early so they can serve the last year of their sentences at home under state supervision.

Participating criminals would wear electronic monitors so corrections offi-

cial would know their whereabouts at all times — at a cost of approximately \$10 to \$15 a day instead of the \$55 daily it would take to keep them behind bars.

But not everybody's happy; Superior Court Chief Justice Thomas E. Delahanty II said that there may be constitutional problems with allowing convicted persons out of the hoosegow before their sentences are formally over.

There are about 67 convicts in a similar state program called "intensive supervision," but they are officially on probation and have been placed in the program by the courts.

Let's hope the governor, who is preparing a bill to allow Allen's program to get off the ground, and the Legislature, which must approve it, can resolve those questions and get supervised community confinement started.

The intensive supervision program works.

Expanding similar treatment to people nearing the end of their terms who offer little danger to society seems an ideal way to lessen the corrections crunch that threatens us all.

Newsletter ideas?  
Jr EW

# CORRECTIONS SUMMIT

MAY 7, 1991

## SUMMARY OF RECOMMENDATIONS

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Short-term Recommendations	2
Long-term Recommendations	3

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RECOMMENDATIONS OF THE MAINE CORRECTIONS SUMMIT

A Report to Governor McKernan, Chief Justice McKusick  
Senate President Pray, and House Speaker Martin

May 7, 1991

Prepared by Frank O'Hara, Market Decisions, Inc.

*" Because of this facility, many who leave will not be the ones who break into your homes.*

*Because of this facility, I can once again be proud like I once was when I was the son of a police chief and retired military man.*

*I have gained my values back that I lost by my alcoholism and I have found my pride that I left behind on the day I committed my crime.*

*I ask from my heart that you will allow the staff and the inmates of the Central Maine Pre-Release Center to continue to serve your community and state..."*

April 22, 1991 letter to Legislature from James Stewart, Jr., from the Central Maine Pre-Release Center

INTRODUCTION

The Maine correctional system is in crisis. Prisoners are continuing to flow in. But money for facilities, staff, and programs is declining. As a result, facilities like the Central Maine Pre-Release Center, from which the above letter was written, are threatened with closure.

In response to this crisis, the Governor, Chief Justice, and Legislative Leadership asked Maine's leading corrections' experts to come together and make short and long term recommendations for the system. On only a week's notice, over 125 Maine judges, district attorneys, local and county police, legislators, lawyers, corrections officials, and concerned citizens showed up for a full day summit at the Augusta Civic Center on May 7, 1991.

The summit developed three short term recommendations for the next 6 weeks, and ten long term recommendations for the next two to three years. The recommendations are provided on the following pages.

JUN 2 1994

## SHORT TERM RECOMMENDATIONS

1. Preserve the existing corrections system in next year's budget (total cost about \$68 million). No reforms can go forward in the face of the chaos and disruption that would be caused by closing existing facilities and community programs.

The adult prison population is growing -- from under 1500 two years ago, to 1700 today, and is projected to exceed 2000 by 1994. The bed capacity in the system is about 1200.

A recent budget proposal contained no funds to open new facilities under construction (Warren and Bolduc); proposed the closing of four existing facilities with 330 beds (Bangor and Central Maine Pre-Release Centers, Charleston and Downeast); cut staff at the remaining facilities; eliminate community corrections services contracts; and reduce staffing for probation services.

Summit participants unanimously agreed that any cuts to the current system were unwise, dangerous, and self-defeating. Cuts would increase the risk of inmate fights and incidents -- which, besides creating health and safety problems, also cause high health and legal costs for the state. Cuts would also move many clients from cheaper programs to more expensive forms of incarceration. There is a need for more alternatives to incarceration -- but these can only go forward safely and effectively in an orderly process if all current services are maintained.

2. Expand alternatives to incarceration -- specifically, the Intensive Supervision Program (ISP) and early release programs. This could reduce prison overcrowding at modest additional cost -- for example, ISP costs about \$4,000 per prisoner, in contrast to \$25,000 at the Maine State Prison.

The ISP program experiment has been a success for specific groups of prisoners. It should be expanded state-wide, and expansion of eligibility criteria for the program should also be considered. In addition, with additional probation officers, an early release program for prisoners nearing the end of their terms, with good behavior records, could help reduce overcrowding and ease the transition back into community life. Of all the alternatives to incarceration available, these can be accomplished the quickest and the most effectively.

3. Begin planning to reinstitute parole.

Parole offers incentives for good prisoner behavior, and a means of selectively reducing prison overcrowding. Parole was badly administered in Maine in the 1970's, which was why it was abolished in the revised Criminal Code. But it could be done better. Introduce a bill to reinstitute parole this session, carry it over, and hold public hearings this summer. This process could also develop increased community concern for correctional services.

LONG TERM RECOMMENDATIONS

1. Hold a 2-3 day Corrections Symposium next fall.

The Summit was a one day, hastily arranged affair. There is a need for the groups represented to reconvene in the future to consider the long range issues (listed below) in considerably more depth. This could be done in a well-planned symposium next fall.

2. Set goals for the criminal justice system (punishment, prevention, rehabilitation), and institute planning and offender information systems to track success. Create credibility and accountability.

At present, the criminal justice system lacks the planning capability and information systems needed to track offenders and answer simple questions like "what works" and "what doesn't." As more alternative punishment and rehabilitation systems are developed, such information will become increasingly important.

3. Create a Commission to reexamine the Criminal Code for proportion, fairness, flexibility, and balance.

The Legislature is now considering 43 bills which create new criminal offenses, or add to the penalties for existing offenses. The Department of Corrections estimates that if all these bills were to pass, 80 new prisoners would be added annually to the corrections system. A new 80 bed prison costs \$7.2 million to build, and \$1.9 million annually to run.

This situation is not unusual. The public and Legislature want to get tough on crime -- but no one wants to pay the bill. Many new laws have been added in recent years -- some with mandatory sentences, which reduce the flexibility of the judge and corrections system. It's time to step back and take a look at the whole picture.

Another step suggested would be to re-fund the Sentencing Institute, which is called for in the law but hasn't met in recent years.

4. Increase sentencing options -- create a "smorgasbord" extending from close incarceration to fines and restitution.

Not every criminal belongs in a prison. Some can be more appropriately punished and rehabilitated in community settings, in a dormitory-style restitution center, at a day center, or on different degrees of probation. There is a need for "transitional" arrangements between prison and the street. More options will also allow the Corrections Department to create incentives for good behavior among inmates. Creating alternatives will require a reform of the Criminal Code (above) and the development of new programs in the Corrections Department.

5. Improve understanding and prevention of crime.

One participant said that "if we really knew how to help sex and substance abusers, and their children, 75% of the crime and corrections problem in Maine would disappear."

Understanding and prevention will require inter-departmental coordination. The schools are the first to see problem behavior that later can develop into crime. At present there is little research or communication on the subject.

6. Improve counselling and rehabilitation services.

Along the same lines, early intervention services for youth and adults when they first have committed crimes needs to be provided. Priority areas mentioned include sexual abuse treatment, alcohol/substance abuse treatment, mental health counselling, and work counselling. "Wrap around" programs for youth in rural areas, which provide the funding for individualized programs, are also needed.

Currently growing caseloads, and declining community funds for non-profit agencies, are reducing the quality of services available to inmates at a time when they should be improving. Increasing caseloads for probation officers also have reduced their effectiveness in promoting rehabilitation. Community placement must be maintained as an effective and viable alternative to institutionalization.

7. Give special attention to youth populations.

With all the attention to overcrowding and problems among adult offenders, some felt that the problems of youth are not being given enough attention. Proper intervention at an early age can prevent a lifetime of crime. The role of the Maine Youth Center needs to be redefined, and more community services are needed. An adaptation of the ISP program for juvenile offenders should also be considered.

8. Establish minimum health and safety standards for institutions.

At what point is an institution so crowded that it is dangerous? At what point is it no longer effective in correcting criminal behavior? More bed space is badly needed. Another proposal was to put a cap on the populations of Maine's corrections institutions. Staff training and facility modernization (or replacement) are also needed.

9. Expand public awareness and understanding.

The public wants tough laws, but votes no to prison bond issues. The public wants low cost and effective corrections institutions, but opposes locating low cost and effective community facilities in their neighborhoods. There is a general problem with a lack of public confidence in sentencing and corrections in Maine.

Ideas for educating and involving the public included speakers' bureaus, public hearings on parole, and regular public information on the criminal justice system (particularly its successes). The need to personalize the problem, to bring it home in human terms, was emphasized. Even so, everyone understood that corrections would never be a subject of great public interest -- except in cases of dramatic failure or breakdown.

10. Improve legal services for the poor, and victim compensation and involvement.

Other failures of the criminal justice system, briefly touched upon, included the lack of effective legal representation for the poor, and the lack of involvement and restitution to victims. Adequate data regarding the effectiveness of various sentencing alternatives for particular groups of offenders is also needed.



**APPENDIX H**  
**Maine Criminal Justice Sentencing Institute New Clippings**  
**and Records**

## Probation sentences down, say reports

BY JUDY HARRISON  
OF THE NEWS STAFF

AUGUSTA — Changes in sentencing laws enacted earlier this year to ease the caseloads of the state's probation officers are having an impact, according to preliminary reports.

It is still too early, however, to tell whether the long-term results will ease the rapid growth of Maine's prison and jail populations, according to the commission that recommended the changes.

"There has been some decrease in new probations," Neale Duffett, a Portland attorney who served on the commission, said Thursday. "There has been a 25 percent decrease in the number of people placed on probation since July."

Judges, prosecutors, law enforcement officials, probation officers, correction officials, defense attorneys and service providers gathered Thursday in Augusta for the Maine Sentencing Institute. It is held every three years to discuss crime, its impact, and how offenders should be dealt with at every level of the system.

Thursday's meeting focused on the results of recommendations from the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners passed in March by the Legislature. Ways to better deal with mental health issues of offenders will be the topic of today's session.

The law revamping probation rules to create needed space in Maine's overcrowded prisons and jails was passed last spring. It eliminated probation for most misdemeanor offenses. It also gave state corrections officials authority to place some inmates with two years remaining on their sentences in supervised community confinement with time off for good behavior increased from five days to nine days per month. The "good time provision" does not apply to those serving time for murder.

See Probation, Page B5

Nashville, finding an apartment his heart. One day would perform at the published in the near future

# Probation

*Continued from Page B1*

sex crimes or domestic violence. "We're still dealing with the nuts and bolts of how it's going to work," Penobscot County Deputy District Attorney Michael Roberts said Thursday. "It only applies to crimes that have occurred since August 1, and that's not many cases."

The impact of the new law won't be felt in the county jails and state prisons for several years, Duffett said Thursday. About 60 percent of the commitments to the Department of Corrections in 2004 is expected to be for probation revocations. A decade ago, the figure was 11 percent.

"Ideally, probation is a wonderful concept," Duffett said, "but in Maine, we killed it by overusing it."


New studies are showing that traditional models aimed at lowering recidivism don't work, Edward Latessa, an expert in criminal justice and corrections from the University of Cincinnati, said Thursday. In many cases, programs aimed at preventing criminals from committing new crimes actually increase the likelihood that they will reoffend when released.

"You have to target multiple risk factors," he said. "Programs fail because they target only one risk factor like substance abuse. ... We have to focus on current factors that influence behavior, and treatment must be action-oriented and teach new skills rather than just be talk therapy."

Maine is one of two states in the nation in a pilot project sponsored by the U.S. Justice Department's National Institute of Corrections to implement an integrated approach to reducing recidivism using much of Latessa's research.

Implementation is expected to begin next year, according to Martin Magnusson, commissioner of the Maine Department of Corrections.

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# Jail diversion programs take hold around Maine

BY JUDY HARRISON  
OF THE NEWS STAFF

AUGUSTA — The largest mental hospitals in Maine and the nation are county jails, according to a national expert on jail diversion programs.

That can change if those who deliver mental health and substance abuse services collaborate with the criminal justice system. David M. Wertheimer of Seattle said Friday at the Maine Sentencing Institute.

More than 400 judges, prosecutors, lawyers, law enforcement officials, substance abuse counselors and mental health workers attended the two-day program, which is held every three years.

"You are well on your way in Maine to creating jail diversion programs that work," Wertheimer said Friday. Jail diversion programs are

designed to divert people whose crimes stem from mental illness from jail to community-based programs that provide treatment and support.

Portland's jail diversion program is in its second year. Bangor and

## *Community treatment teams gather expertise to reduce recidivism*

Penobscot County are taking steps toward creating a similar program.

In the past, treatment for most mentally ill offenders has been made a condition of probation. Yet suicide attempts by inmates at county jails and incidents with police and the public have demonstrated a need for

earlier intervention, law enforcement officials said Friday.

"We have designed systems that make sense to bureaucrats, funders, agency administrators and service providers," Wertheimer said. "They do not make sense from the perspective of people with multiple problems who need or are seeking our help."

An integrated approach is needed, according to Wertheimer, because about 75 percent of arrestees exhibit signs of mental illness and substance abuse. They also are likely to be unemployed, homeless and need a variety of services, all cooperating and collaborating.

Some of those services and programs include:

- Mental health services, residential or outpatient.
- Substance abuse services, residential or outpatient.

*See Jail, Page A2*

# Jail

Continued from Page A1

- Emergency transitional and permanent housing.
- Vocational or employment services.
- Intensive case management and/or supervision.
- Peer support and consumer-operated services.
- Primary care services.

## Correcting the record

The Bangor Daily News strives to be accurate and fair. To report an error, call 899-9030 or (800) 432-7864.

An item appearing in Joni Averill's column on Friday regarding the Brewer Youth Theatre Holiday Spectacular had an incorrect day. The event is at 7 tonight.

A story published in Friday's Final edition about the Corinth selectmen's meeting needs clarification. Code Enforcement Officer Dalton Mullis is properly licensed but wasn't licensed when he first was hired, according to Board of Selectmen Chairman Frank Thomas.

• Access to entitlements.  
Portland's program, "Diverting Offenders to Treatment," was funded by a grant two years ago. It includes an assertive community treatment team that involves mental health, vocational training and substance abuse professionals, as well as supported living situations and a case manager to link mental health, substance abuse, judicial and criminal justice staff together to reduce recidivism rates.

An essential part of the Portland program has been working cooperatively with pretrial services, according to Elizabeth Simoni, executive director of Maine Pretrial Services.

Pretrial services in the Portland program provide a link between the treatment community and the judicial and criminal justice system by assisting people who have been arrested to find needed services, negotiate the court system and put together a jail diversion plan that can be submitted to a judge for approval.

Since April 2003, 78 people have been released through the program with pretrial contracts.

Forty-seven completed the program successfully, without committing new crimes, she said Friday.

That equates to 1,600 bed-days saved at the Cumberland County Jail for an estimated cost savings of \$700,000, Simoni said.

"The flip side is that they spend more time in jail than if they had been released on PR [personal recognizance] bail because they were awaiting placement in [community-based] program," Simoni said. "The average wait was 10 days. Some were longer, and some were as short as two days."

Law enforcement officers around the state are being trained in handling psychiatric crises in their communities. Portland police officers were trained in the Crisis Intervention Team program three years ago. Bangor police and correction officers at the Penobscot County Jail are to begin training soon, Penobscot

County Sheriff Glenn Ross said Friday.

Crisis intervention programs exist in seven other Maine communities and have been shown to reduce arrests and divert people to treatment. Officers learn skills to help them respond successfully to crisis situations, and in many cases, prevent hospitalization or arrest of the mentally ill.

Ross said that much of what is happening around the state is the formalization of the informal networking that has gone on for years. The next step for Penobscot County is to create written agreements with providers and reach across barriers to get more service providers involved.

One of the benefits of such collaborations, he said, are that the more diverse the groups involved are, the easier it is to gain access to funding sources and the more likely it is that grants will be awarded.

## Lottery

**Daily numbers:**  
Day drawing 871 --- 5826  
Evening drawing 643 --- 6315  
**Heads or Tails:** 5 23 24 30 31  
heads



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Isn't that what you really want?

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# MAINE STATE LEGISLATURE

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**ACTIVITY SHEET**  
**JUDICIARY COMMITTEE**

**LD 852**

**TITLE: An Act To Amend Certain Provisions of Law Affecting the  
Judicial Branch**

*XX*

HEARING DATE:

2 April 2013

WORK SESSION DATES:

9 April 2013  
   
   
   
   
   
 

COMMITTEE REPORT:

OTP-A

REPORTED OUT DATE:

15 Mai 2013



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 852

H.P. 603

House of Representatives, March 5, 2013

### **An Act To Amend Certain Provisions of Law Affecting the Judicial Branch**

---

Submitted by the Judicial Department pursuant to Joint Rule 204.  
Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PRIEST of Brunswick.  
Cosponsored by Senator VALENTINO of York and  
Representatives: BEAULIEU of Auburn, CROCKETT of Bethel, FREDETTE of Newport,  
MONAGHAN-DERRIG of Cape Elizabeth, MORIARTY of Cumberland, Senators: BURNS  
of Washington, KATZ of Kennebec.



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

2 Sec. 1. 4 MRSA §17-A, as enacted by PL 1993, c. 172, §1, is amended to read:

3 §17-A. Publications and technology

4 1. **Informational publications.** The State Court Administrator may establish a fee  
5 schedule to cover the cost of printing and distribution of publications and forms and the  
6 procedures for the sale of these publications and forms.

7 2. **Fund; fees deposited.** All fees collected under this section from the sale of  
8 publications or forms must be deposited in a fund for use by the State Court  
9 Administrator to ~~replace and update publications and forms and to fund new publications,~~  
10 forms and information technology.

11 Sec. 2. 4 MRSA §153, first ¶, as amended by PL 2005, c. 397, Pt. C, §4 and  
12 affected by §8, is further amended to read:

13 The State is divided into 28 judicial divisions, named and defined as follows, and  
14 with places for holding court in those divisions as follows:

15 Sec. 3. 4 MRSA §153, sub-§19 is repealed.

16 Sec. 4. 4 MRSA §153, sub-§19-A is enacted to read:

17 19-A. Northern and Central Penobscot. Northern and Central Penobscot consists  
18 of the municipalities and unorganized territory of Hopkins Academy Grant Township,  
19 Long A Township, Medway, TA R7 WELS, Burlington, Edinburg, Lakeville, Lagrange,  
20 Lowell, Passadumkeag, Twombly, Pukakon Township and all municipalities and  
21 unorganized territory in Penobscot County lying to the north of these. The District Court  
22 for Northern and Central Penobscot must be held at Millinocket and Lincoln. The Chief  
23 Judge shall determine the level of service at each location.

24 Sec. 5. 4 MRSA §153, sub-§20 is repealed.

25 Sec. 6. 4 MRSA §183, sub-§1, ¶H is enacted to read:

26 H. The Chief Judge of the District Court may employ a retired family law magistrate  
27 to serve on a per diem basis as an active retired family law magistrate. An active  
28 retired family law magistrate employed pursuant to this paragraph has the same  
29 jurisdiction and is subject to the same restrictions as before retirement. An active  
30 retired family law magistrate serves at the direction of the Chief Judge of the District  
31 Court and is compensated at the per diem rate of \$250 per day or \$150 per half-day,  
32 as long as the total of the per diem compensation and the active retired family law  
33 magistrate's state retirement pension received in any calendar year does not exceed  
34 the annual salary of a family law magistrate. Active retired family law magistrates  
35 are entitled to receive reimbursement for any expenses actually and reasonably  
36 incurred in the performance of their duties.

1           **Sec. 7. 4 MRSA §183, sub-§3**, as amended by PL 2005, c. 384, §1, is further  
2 amended to read:

3           **3. Reports.** The State Court Administrator shall keep statistical records relating to  
4 the cases handled by the Family Division and report this information to the Supreme  
5 Judicial Court annually and to the joint standing committee of the Legislature having  
6 jurisdiction over judiciary matters by ~~January~~ February 15th of each odd-numbered  
7 calendar year.

8           A. The State Court Administrator shall evaluate the functioning of the family law  
9 magistrates in providing a system of justice that is responsive to the needs of families  
10 and the support of their children in light of the jurisdiction given to the family law  
11 magistrates under this section. The State Court Administrator shall report to the joint  
12 standing committee of the Legislature having jurisdiction over judiciary matters no  
13 later than January 15, 1999 with recommendations, if any, for changing the duties  
14 provided in subsection 1, paragraph D.

15           B. The State Court Administrator shall report to the joint standing committee of the  
16 Legislature having jurisdiction over judiciary matters by January 15, 1999 explaining  
17 the justification for the particular geographic assignments of the family law  
18 magistrates.

19           **Sec. 8. 4 MRSA §423, first ¶**, as enacted by PL 1999, c. 780, §1, is amended to  
20 read:

21           The Judicial Department shall report to the joint standing committee of the  
22 Legislature having jurisdiction over judiciary matters by ~~January 15, 2002 and February~~  
23 15th annually thereafter on the establishment and operation of alcohol and drug treatment  
24 programs in the courts. The report must cover at least the following:

25           **Sec. 9. 4 MRSA §454, 2nd ¶**, as amended by PL 1997, c. 134, §6, is further  
26 amended to read:

27           The ~~When sufficient funding is allocated by the Legislature, the~~ institute shall meet at  
28 ~~least once every 3 years~~, at the call of the Chief Justice of the Supreme Judicial Court, for  
29 a 2-day period to discuss recommendations for changes in the sentencing authority and  
30 policies of the State's criminal and juvenile courts, in response to current law enforcement  
31 problems and the available alternatives for criminal and juvenile rehabilitation within the  
32 State's correctional system. Inasmuch as possible the deliberations of the institute must be  
33 open to the general public.

34           **Sec. 10. 4 MRSA §1802, sub-§1-A** is enacted to read:

35           1-A. Appellate counsel. "Appellate counsel" means an attorney who is entitled to  
36 payment under Title 15, section 2115-A, subsection 8 or 9.

37           **Sec. 11. 4 MRSA §1804, sub-§3, ¶I**, as enacted by PL 2009, c. 419, §2, is  
38 amended to read:

1 I. Approve and submit a biennial budget request to the Department of Administrative  
2 and Financial Services, Bureau of the Budget, including supplemental budget  
3 requests as necessary; and

4 **Sec. 12. 4 MRSA §1804, sub-§3, ¶J**, as repealed and replaced by PL 2011, c.  
5 141, §1, is amended to read:

6 J. Develop an administrative review and appeal process for attorneys who are  
7 aggrieved by a decision of the executive director, or the executive director's designee,  
8 determining:

9 (1) Whether an attorney meets the minimum eligibility requirements to receive  
10 assignments or to receive assignments in specialized case types pursuant to any  
11 commission rule setting forth eligibility requirements;

12 (2) Whether an attorney previously found eligible is no longer eligible to receive  
13 assignments or to receive assignments in specialized case types pursuant to any  
14 commission rule setting forth eligibility requirements; and

15 (3) Whether to grant or withhold a waiver of the eligibility requirements set forth  
16 in any commission rule.

17 All decisions of the commission, including decisions on appeals under subparagraphs  
18 (1), (2) and (3), constitute final agency action. All decisions of the executive  
19 director, or the executive director's designee, other than decisions appealable under  
20 subparagraphs (1), (2) and (3), constitute final agency action; and

21 **Sec. 13. 4 MRSA §1804, sub-§3, ¶K** is enacted to read:

22 K. Pay appellate counsel.

23 **Sec. 14. 15 MRSA §2115-A, sub-§8**, as amended by PL 1979, c. 663, §110, is  
24 further amended to read:

25 **8. Fees and costs.** The Law Court shall allow reasonable counsel fees and costs for  
26 the defense of appeals under this section, to be paid by the Maine Commission on  
27 Indigent Legal Services under Title 4, section 1801.

28 **Sec. 15. 15 MRSA §2115-A, sub-§9**, as enacted by PL 1987, c. 461, is amended  
29 to read:

30 **9. Appeals to Federal Court; fees and costs.** The Law Court shall allow  
31 reasonable ~~attorneys~~ attorney's fees for court appointed counsel when the State appeals a  
32 judgment to any Federal Court or to the United States Supreme Court on certiorari. Any  
33 fees allowed pursuant to this subsection ~~shall~~ must be paid out of the accounts of the  
34 ~~Judicial Department~~ Maine Commission on Indigent Legal Services under Title 4, section  
35 1801.

36 **SUMMARY**

37 This bill does the following.

- 1           1. It authorizes the State Court Administrator to use the fees generated from the sale  
2 of publications or forms to fund forms and information technology.
- 3           2. It combines the judicial divisions of Northern Penobscot and Central Penobscot  
4 into Northern and Central Penobscot and authorizes the Chief Judge to determine the  
5 level of service at the sites of the district courts for that judicial division.
- 6           3. It permits the Chief Judge of the District Court to employ retired family law  
7 magistrates.
- 8           4. It changes the reporting dates for the Judicial Department and the State Court  
9 Administrator from January 15th to February 15th.
- 10          5. It requires the Maine Criminal Justice Sentencing Institute to meet only when  
11 sufficient funding has been allocated for that purpose, instead of every 3 years as in  
12 current law.
- 13          6. It requires attorney's fees for the defense of appeals by the State to be paid by the  
14 Maine Commission on Indigent Legal Services.

STATE OF MAINE  
126TH LEGISLATURE

LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON JUDICIARY

Sen. Linda Valentino, Senate Chair  
Rep. Charles Priest, House Chair

PUBLIC HEARING: Tuesday, April 02, 2013, 1:00 PM, Room 438 State House

- (L.D. 680) Bill "An Act To Nullify the Federal Patient Protection and Affordable Care Act of 2010" (HP0472) (Presented by Representative LIBBY of Waterboro) (Cosponsored by Senator MASON of Androscoggin, Senator COLLINS of York, Representative MCCLELLAN of Raymond, Representative CRAFTS of Lisbon, Representative SANDERSON of Chelsea, Representative SIROCKI of Scarborough, Representative CRAY of Palmyra, Representative TIMBERLAKE of Turner, Representative WALLACE of Dexter)
- (L.D. 884) Bill "An Act To Improve Death Investigations" (SP0309) (Presented by Senator GERZOFISKY of Cumberland) (Cosponsored by Representative GRAHAM of North Yarmouth) Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
- (L.D. 864) Bill "An Act Regarding Service of Small Claims Notices" (SP0289) (Presented by Senator COLLINS of York) (Cosponsored by Senator BURNS of Washington)
- (L.D. 912) Bill "An Act To Provide Another Alternative to the Civil Order of Arrest Process" (HP0636) (Presented by Representative NELSON of Falmouth) (Cosponsored by Senator KATZ of Kennebec, Senator HILL of York, Senator BOYLE of Cumberland, Senator HASKELL of Cumberland, Representative HOBBS of Saco, Representative NUTTING of Oakland, Representative PRIEST of Brunswick, Representative DION of Portland, Representative MORIARTY of Cumberland)
- (L.D. 852) Bill "An Act To Amend Certain Provisions of Law Affecting the Judicial Branch" (HP0603) (Presented by Representative PRIEST of Brunswick) (Cosponsored by Senator VALENTINO of York, Senator BURNS of Washington, Senator KATZ of Kennebec, Representative FREDETTE of Newport, Representative BEAULIEU of Auburn, Representative MORIARTY of Cumberland, Representative CROCKETT of Bethel, Representative MONAGHAN-DERRIG of Cape Elizabeth) Submitted by the Judicial Department pursuant to Joint Rule 204.
- (L.D. 1040) Bill "An Act To Prohibit the Placement of Cameras and Electronic Surveillance Equipment on Private Property without the Written Permission of the Landowner" (SP0354) (Presented by Senator THOMAS of Somerset) (Cosponsored by Representative WILLETTE of Mapleton, Senator LANGLEY of Hancock, Senator WHITTEMORE of Somerset, Representative CRAFTS of Lisbon, Representative GIFFORD of Lincoln, Representative TURNER of Burlington)
- (L.D. 1025) Bill "An Act To Amend the Law Pertaining to Staff in the Office of the Attorney General" (SP0350) (Presented by Senator VALENTINO of York) (Cosponsored by Representative PRIEST of Brunswick) Submitted by the Department of the Attorney General pursuant to Joint Rule 204.

CONTACT PERSON:

Susan Pinette  
100 State House Station  
Augusta, ME 04333-0100  
287-1327

# JUDICIARY COMMITTEE

## Work Session Agenda

Tuesday, April 9, 2013  
1:00 pm  
Room 438 State House

- (L.R. 1046) BUDGET (*report to Appropriations is due on April 11<sup>th</sup>*)
- (L.D. 220) Bill "An Act To Ban the United Nations Agenda 21 in Maine" (HP0181) (Presented by Representative LONG of Sherman) (Cosponsored by Senator JACKSON of Aroostook, Representative CRAFTS of Lisbon, Representative GIFFORD of Lincoln, Representative THERIAULT of Madawaska, Representative TIMBERLAKE of Turner, Representative JACKSON of Oxford, Representative LIBBY of Waterboro, Representative JOHNSON of Greenville, Representative WILLETTE of Mapleton, Representative STANLEY of Medway)
- (L.D. 1025) Bill "An Act To Amend the Law Pertaining to Staff in the Office of the Attorney General" (SP0350) (Presented by Senator VALENTINO of York) (Cosponsored by Representative PRIEST of Brunswick) Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
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FOA Reviews TBA  
Amendment Reviews TBA

CONTACT PERSON:

Susan Pinette  
100 State House Station  
Augusta, ME 04333-0100  
287-1327



Testimony of the Maine Judicial Branch in Support of *LD 852, An Act To Amend Certain Provisions of Law Affecting the Judicial Branch*

Senator Valentino, Representative Priest, Members of the Joint Standing Committee on Judiciary; my name is Mary Ann Lynch, I am here on behalf of the Judicial Branch to testify in support of this Judicial Branch bill.

First I want to thank the sponsors for agreeing to sponsor this legislation for the Branch. We appreciate your efforts on behalf of the Branch.

This bill makes 6 changes in the laws affecting the Judicial Branch.

Section 1 is important for the future direction of the Judicial Branch. As you heard from Chief Justice Saufley at the State of the Judiciary, the Judicial Branch needs to develop and purchase a modern case management system that will also serve as the platform for electronic filing. Our plan is to create an RFP in FY 14 that will be used to obtain specific cost estimates for the development and purchase of a case management system. In FY 15 we undoubtedly will be requesting much larger amount of money to purchase the case management system.

We sought to have the FY 14 RFP work funded in the Governor's budget, but this was not funded. There is enough money in the Publications Fund, administered by the Branch, to fund this initial, FY 14, work. Currently, the Fund may only be used for publications and forms. This bill would allow the fund to also be used for information technology. If this bill passes we would use money from the fund to hire contractors to work with us to develop a detailed RFP.

Sections 2, 3, 4 and 5, combine the two northern Penobscot judicial districts and recognizes that the Chief Judge of the District Court may determine the level of service in the Northern Penobscot courts of Lincoln & Millinocket. We simply do not have the staff to keep both courts open 5 days a week. Millinocket is open one day a week, for the convenience of the public. Lincoln is open 5 days a week. Together the two courts have less than 2300 case filings a year, and given the resources of the court it does not make sense to open both courts 5 days a week. The two courts are 32 miles apart.

Section 6 permits the Court to employ "active retired" family law magistrates. Currently there are 8 family law magistrates who work in the



family law division as judicial officers of limited jurisdiction. We would like to be able to employ retired family law magistrates on a per diem basis, just as we employ “active retired” judges, from time to time. This bill would not increase the position count. ARFLMs could be employed so long as their earnings and pension together do not exceed a full time FLM. There is no fiscal note as we intend to use money set aside for active retired judges. And since the federal government pays 75% of the cost of the FLMs, this would actually leverage our resources with additional federal dollars

Section 7 and 8 change report filing dates from Jan. 15<sup>th</sup> to Feb. 15<sup>th</sup>. These reports have been challenging to pull together in such a short period of time after the close of the year, and we could use the extra time to deliver these reports to the Legislature.

Current law requires the Chief Justice to convene a sentencing Institute every three years. We have not received funding for many years, and thus, no sentencing Institute has been convened in recent years. Section 9 makes the convening of a sentencing institute contingent on funding allocated by the legislature.

Current law requires that the state pay the attorneys fees when the state takes a criminal appeal of an order in favor of the defendant, regardless of whether the defendant is indigent. When the Maine Indigent Legal Services Commission was created we transferred all monies that we paid to counsel, not just indigent counsel, but also the small number of cases that fell under this appeal requirement. It was simply an oversight, in drafting the enabling legislation creating the Commission that we did not include these appeals. Since we transferred all funds to the Commission we do not believe this bill should get a fiscal note. Since the transfer in FY 10, we have paid out one voucher for \$2,827.00. Sections 10-through 15 of this bill clarify that the Commission shall have responsibility for these cases.

Thank you for your attention. I am happy to answer any questions.

**APPENDIX I**  
**Bills Since 1976 with “Parole” in Title**

Legis.	LD Sess.	LD#	Paper#	Chapter#	Title
112	R1	858	HP0588	203	AN ACT TO CLARIFY SENTENCES PERMISSIBLE FOR A CRIME COMMITTED BY A PAROLEE
112	R1	899	SP0336	0	AN ACT TO ESTABLISH A PILOT INDIGENCY SCREENING UNIT FOR COURT APPOINTED COUNSEL
112	S2	2410	HP1720	0	An Act to Appropriate Funds Necessary to Implement an Intensive Supervision Program, to Develop Community Corrections and Treatment Programs and to Address Needs of the Department of Corrections for the Fiscal Year Ending June 30, 1987
113	R1	299	HP0231	61	An Act Concerning Good Time and Meritorious Good Time Relative to Parole Eligibility
113	R1	1582	SP0530	315	An Act to Clarify the Powers of Arrest of a Probation and Parole Officer
113	R2	1971	HP1460	0	An Act to Authorize a Probation Officer to Bring an Ex Parte Motion to Change the Conditions of Probation
113	R2	2515	HP1838	0	An Act to Substantially Revise the Driver Education Evaluation Program
114	R1	539	SP0223	113	An Act to Make Technical Changes to Provisions Related to the Probation and Parole and Intensive Supervision Program Functions
115	R2	2224	HP1577	0	An Act to Reinstate a System of Parole
116	R1	590	SP0176	147	An Act to Amend the Statutory Provisions Governing the Time and Method of Paying Restitution
116	R1	833	SP0269	170	An Act to Amend the Provisions Related to the Supervised Community Confinement Program
116	R2	901	HP0663	0	An Act to Reinstate a System of Parole
116	R2	1243	HP0919	717	An Act Concerning Sexual Abuse Laws
116	R2	1941	SP0719	0	An Act to Make Additions to the Department of Corrections Budget
117	R1	1506	HP1071	0	An Act Regarding the Registration and Publication of Residences of Released Persons Convicted of Sexual Abuse of a Minor
118	S1	522	HP0377	0	An Act to Clarify the Need and Time Frame for Presentence Investigations
118	S1	1467	HP1050	464	An Act to Amend the Law to Be Consistent with the Organizational Structure of the Department of Corrections and for Other Purposes
118	S1	1806	HP1276	422	An Act to Amend Maine's Involuntary Commitment Laws
118	R2	2080	HP1481	0	An Act to Enhance the Bail Requirements for Persons Charged with Murder
118	R2	2180	HP1551	0	An Act to Increase the Number of Probation Officers and Corrections Support Staff
118	S2	2185	HP1556	124	Resolve, to Provide Accountability in the Probation System
118	R2	2257	HP1629	714	An Act to Make Public the Records of the Department of Corrections Relating to Inmate Furloughs and Requests under the Uniform Act for Out-of-State Parolee Supervision
119	R2	1803	SP0636	0	An Act to Revoke Probation and Require Incarceration for Repeated Domestic Abuse

119	R2	2531	HP1804	0	An Act to Institute a System of Parole for Certain Maine Criminal Code Prisoners
119	R2	2612	HP1875	0	An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole
120	R2	1081	HP0827	0	An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole
120	R1	1159	SP0345	0	An Act to Increase Effectiveness within the Department of Corrections when Serving Warrants of Arrest for Persons Charged with Probation and Parole Violations
121	R1	311	HP0254	495	An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation and Parole
121	R1	1023	SP0354	158	An Act To Criminalize Noncompliance with an Interstate Compact for Adult Offender Supervision
121	R1	1323	HP0977	500	An Act To Adopt an Interstate Compact for Juveniles on Probation and Parole
125	R1	1500	HP1101	0	An Act To Establish Positive Reentry Parole
125	R2	1754	SP0602	515	An Act To Amend Certain Provisions of Law Governing the Department of Corrections
126	R1	873	SP0298	0	An Act To Establish Positive Reentry Parole
128	R1	1458	SP0504	149	An Act To Amend the Law Relating to the Crime of Hindering Apprehension or Prosecution
129	R1	925	HP0680	0	An Act Requiring the Department of Corrections To Fully Fund County Jails for Individuals Sentenced to County Jails for More Than 6 Months and Individuals Held for Probation or Parole Violations
130	R2	0	HP1402	0	Joint Order, To Recall from the Governor's Desk to the House L.D. 842, An Act To Reestablish Parole
130	R2	0	HP1418	0	Joint Order, To Recall from the Governor's Desk to the House L.D. 842, An Act To Reestablish Parole
130	R2	842	HP0610	126	Resolve, To Create the Commission To Examine Reestablishing Parole

**APPENDIX J**

**Maine 130 - H.P. 610, Item 1 (LD 842)**



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 842

H.P. 610

House of Representatives, March 8, 2021

### An Act To Reestablish Parole

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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 EVANGELOS of Friendship.  
Cosponsored by Senator MIRAMANT of Knox and  
Representatives: HARNETT of Gardiner, O'NEIL of Saco, PLUECKER of Warren, RECKITT  
of South Portland, TALBOT ROSS of Portland, WARREN of Hallowell, Senators: BAILEY  
of York, MAXMIN of Lincoln.

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

2 Sec. 1. 34-A MRSA c. 5, sub-c. 6 is enacted to read:

3 **SUBCHAPTER 6**

4 **POSITIVE REENTRY PAROLE FOR CERTAIN MAINE CRIMINAL CODE**  
5 **PRISONERS**

6 **§5821. Applicability**

7 This subchapter applies to persons sentenced to the custody of the Department of  
8 Corrections.

9 **§5822. Parole by board**

10 The board may grant a parole from a correctional facility after the expiration of the  
11 term of imprisonment, less deductions pursuant to Title 17-A, section 2307, subsections 2  
12 and 3, or after the parolee's compliance with conditions provided in this subchapter  
13 applicable to the sentence being served. The board may revoke a parole when a condition  
14 of the parole is violated.

15 **1. Duration and conditions of parole.** When the board grants a parole, upon release  
16 the parolee shall serve the unexpired portion of the parolee's sentence under conditions of  
17 custody established pursuant to subsection 2, less deductions pursuant to Title 17-A,  
18 section 2307, subsections 2 and 3, unless otherwise indicated by the board.

19 **2. Custody and control.** While on parole, the parolee is under the custody of the  
20 warden or chief administrative officer of the correctional facility from which the parolee  
21 was released but under the immediate supervision of and subject to the rules of the division  
22 of probation and parole within the department and any special conditions of parole imposed  
23 by the board.

24 **§5823. Parole of prisoners; eligibility; process**

25 **1. General provisions regarding eligibility.** A person convicted of one or more  
26 crimes who is sentenced to the custody of the Department of Corrections and who received  
27 a sentence of imprisonment is eligible for parole upon application if:

28 A. The person's sentence was imprisonment for life or for any term of not less than 25  
29 years and the person has served at least 20 years of that sentence, or the person's  
30 sentence was imprisonment for a term of at least one year to 25 years and the person  
31 served not less than 1/2 of the sentence of imprisonment or 1/2 of the most recent  
32 sentence imposed by the court, whichever is greater;

33 B. Based on all available information, including reports that the board may require,  
34 the board determines that there is a reasonable probability that the person will live and  
35 remain at liberty without violating the law; and

36 C. The board determines that the parole is not incompatible with the welfare of society.

37 **2. Administrative release and revocation guidelines.** The board shall by rule  
38 develop administrative release guidelines for use by the board in evaluating applications  
39 for parole as described in section 5824 and shall develop administrative revocation  
40 guidelines as described in section 5825 for use by the board in considering revocation of  
41 parole.

1           **3. Parole hearing.** The board shall hold a hearing, which must be video recorded, to  
2 review an application for parole. The board shall use its administrative release guidelines  
3 and any other information it determines relevant in its review. A person seeking parole  
4 must be represented by legal counsel. The board may hear testimony from both the person  
5 seeking parole and any victims, and the board may hear their testimony separately.

6           **4. Parole granted.** If after a hearing under subsection 3 the board grants parole, the  
7 board shall impose any conditions it determines appropriate to mitigate the risk of the  
8 person's again violating the law.

9           **5. Parole denied.** If after a hearing under subsection 3 the board denies parole, a  
10 subsequent review date must be set for 2 years from the date of the denial. The board shall  
11 inform the person of the reasons parole was denied and what the person needs to  
12 accomplish to be considered again for release on parole. A person denied parole may  
13 appeal the denial within 90 days.

14           **6. Rules.** The board shall adopt rules to implement the provisions of this subchapter.  
15 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
16 chapter 375, subchapter 2-A.

17 **§5824. Administrative release guidelines**

18           The board shall develop administrative release guidelines using evidence-based risk  
19 assessment criteria for use by the board in evaluating applications for parole. The  
20 administrative release guidelines must be used to provide the board with consistent and  
21 comprehensive information relevant to risk factors for parolees. The guidelines must  
22 include a matrix of advisory release decision recommendations for different risk levels.  
23 The following provisions govern administrative release guidelines.

24           **1. Factors.** In developing the administrative release guidelines, the board shall  
25 consider factors including, but not limited to:

26           A. The actuarial risk of reoffense. This factor is the central factor for the board in  
27 making its decision related to the timing and conditions of release on parole. Risk must  
28 be assessed using evidence-based actuarial risk assessment tools and professional  
29 judgment;

30           B. Testimony or a written statement of the victim of the crime or a relative of the  
31 victim or a designee of the victim or relative of the victim;

32           C. The person's assessed criminogenic need level;

33           D. The person's program and treatment participation and progress while in custody;

34           E. The person's conduct in the correctional facility;

35           F. The adequacy of the person's parole plan;

36           G. Whether the person while serving the person's sentence has threatened or harassed  
37 the victim or the victim's family or has caused the victim or the victim's family to be  
38 threatened or harassed;

39           H. Aggravating or mitigating factors from the person's criminal case;

40           I. The testimony or written statement of a prospective parole sponsor, employer or  
41 other person who is available to assist the person if the person is released on parole;



- 1           J. Whether the person has previously absconded or escaped or attempted to abscond  
2           or escape while on conditional release, including community supervision;  
3           K. Whether the person completed or worked toward completing a high school diploma,  
4           a general equivalency degree or a college degree during the period of incarceration;  
5           and  
6           L. Any factor that the board determines appropriate or necessary.

7           The board may not use the administrative release guidelines for the consideration of parole  
8           for a person who is serving a sentence for committing a crime under Title 17-A, chapter 11  
9           or 12. The board shall develop specific sex offender administrative release guidelines to  
10           be used to evaluate parole applications for these cases.

11           **2. Structured decision making.** The board shall adopt standards for evaluating  
12           outcomes of its parole decisions and shall conduct its business in a manner that is accessible  
13           to victims, offenders, other criminal justice professionals and the community.

14           **3. Coordination of risk and needs.** The board shall coordinate supervision conditions  
15           and services with assessed risk and need levels as determined in subsection 1.

16           **4. Risk assessment scale.** The board shall develop a risk assessment scale that  
17           includes evidence-based criteria for reducing the risk of recidivism. The board shall  
18           validate the risk assessment scale at least every 5 years or more frequently if the predictive  
19           accuracy, as determined by data collection and analysis by the board, falls below an  
20           acceptable level.

21           **5. Forms.** The board shall develop forms consistent with an effort to record  
22           information required under this section to capture the rationale for the board's decision in  
23           a parole application case. The department shall print the forms. Victim identity and input  
24           must be protected from display on the form and any board hearing report that may become  
25           part of an applicant's or parolee's record.

26           **6. Training.** The board shall seek regular training for its members to ensure that it is  
27           using best practices in parole application evaluation and applying them effectively in  
28           carrying out its duties.

29           **§5825. Administrative revocation guidelines**

30           The board shall develop administrative revocation guidelines that must be used to  
31           evaluate complaints filed for parole revocation. The board shall develop administrative  
32           revocation guidelines using evidence-based risk assessment criteria. The following  
33           provisions govern administrative revocation guidelines.

34           **1. Factors.** In developing administrative revocation guidelines, the board shall  
35           consider factors including, but not limited to:

- 36           A. A determination by the board that a parolee committed a new crime while on parole;  
37           B. The parolee's actuarial risk of reoffense;  
38           C. The seriousness of a violation of a condition of parole, if applicable;  
39           D. The parolee's frequency of violations of conditions of parole;  
40           E. The parolee's efforts to comply with a previous corrective action plan or other  
41           remediation plan required by the board or by the probation and parole officer;

1           F. The imposition of intermediate sanctions by the probation and parole officer in  
2           response to violations of conditions of parole that may form the basis of the complaint  
3           filed for parole revocation; and

4           G. Whether modification of parole conditions is consistent with public safety and more  
5           appropriate than revocation of parole.

6           **2. Revocation determination for violations of conditions of parole.** In evaluating  
7           complaints filed for parole revocation, the board may not revoke parole for violations of  
8           conditions of parole unless the board determines on the record that appropriate intermediate  
9           sanctions have been used and have been ineffective or that the modification of conditions  
10           of parole or the imposition of intermediate sanctions is not appropriate or consistent with  
11           public safety and the welfare of society.

12           **§5826. Violations of a condition of parole**

13           **1. Arrest and detention for violation.** A probation and parole officer may arrest and  
14           charge a parolee with violation of a condition of parole, take the parolee into custody and  
15           detain the parolee, pending the issuance of a parole violation warrant. The detention may  
16           not extend beyond the next business day, and, if a warrant is not issued in that time, the  
17           parolee must be released from arrest and detention. A parolee arrested and detained does  
18           not have a right of action against the probation and parole officer or any other person  
19           because of that arrest and detention.

20           **2. Issuance of warrant for a violation; board action.** When a parolee violates a  
21           condition of parole or violates the law, a warrant may be issued for the parolee's arrest. A  
22           probation and parole officer, or any other law enforcement officer within the State  
23           authorized to make arrests, may arrest the parolee on the warrant and return the parolee to  
24           the correctional facility from which the parolee was paroled. At its next meeting at that  
25           correctional facility, the board shall hold a hearing. The parolee is entitled to appear and  
26           be heard. If the board, after hearing, finds that the parolee has violated a condition of parole  
27           or the law, the board may revoke the parole, set the amount of the unexpired portion of the  
28           sentence the parolee must serve before the parolee is again eligible for a parole hearing  
29           before the board and remand the parolee to the correctional facility from which the parolee  
30           was paroled.

31           **3. Forfeiting deductions.** Upon revocation of a person's parole by the board under  
32           subsection 2, the person forfeits any deductions pursuant to Title 17-A, section 2307,  
33           subsections 2 and 3 earned while on parole.

34           **4. Earning deductions.** While a person is serving the unexpired portion of a sentence  
35           after parole has been revoked under subsection 2, the person may earn deductions pursuant  
36           to Title 17-A, section 2307, subsections 2 and 3.

37           **5. Tolling of sentence.** Whenever a warrant is issued under this section for the arrest  
38           of a parolee, the running of the parolee's sentence is tolled and remains tolled until the  
39           parolee is returned to the correctional facility from which the parolee was paroled. Tolling  
40           of the running of the sentence must include any time served prior to such return, after  
41           conviction for a crime committed while on parole.

42           In the event of the withdrawal of the warrant, or in the event that the board at the hearing  
43           on the alleged violation finds that the parolee did not violate the conditions of parole or the

1 law, the parolee must be credited with the time lost by the tolling of the running of the  
2 parolee's sentence.

3 **§5827. Sentence for violation of law by parolee**

4 A parolee who violates the law while on parole, when the violation is punishable by  
5 imprisonment for one year or more, and who is sentenced to the custody of the department  
6 shall serve the 2nd sentence beginning on the date of termination of the first sentence,  
7 unless the first sentence is otherwise terminated by the board.

8 **§5828. Discharge from parole**

9 A parolee who faithfully satisfies all the conditions of parole and completes the  
10 parolee's sentence is entitled to a certificate of discharge to be issued by the warden or chief  
11 administrative officer of the correctional facility to which the parolee was committed. If it  
12 appears to the board that a parolee is no longer in need of supervision, the board may order  
13 the chief administrative officer or warden of the correctional facility from which the parolee  
14 was paroled to issue the parolee a certificate of discharge.

15 **§5829. Collection and analysis of data**

16 **1. Outcome data and analysis.** The board shall develop and implement a process to  
17 collect and analyze data related to the basis for the outcomes of the board's determinations  
18 or decisions for granting, revoking or denying parole. Any data related to victim  
19 identification or victim input that is identifiable to the person convicted or the person's case  
20 must be maintained but kept confidential by the board and may be released only to other  
21 government agencies, pursuant to a nondisclosure agreement, for the purposes of analysis  
22 and reporting only.

23 **2. Recidivism data.** When the board grants parole, the board also shall collect data  
24 related to whether the person has previously violated the law while on parole, the type of  
25 reentry program provided as part of the person's parole plan and whether the person violates  
26 the law while on parole.

27 **3. Record of conformance with or departure from guidelines.** The board shall  
28 determine whether a decision granting, revoking or denying parole conformed with or  
29 departed from the administrative release and revocation guidelines under sections 5824 and  
30 5825. If the decision was a departure from the guidelines, the data collected related to  
31 victim identification or victim input are subject to the same protections as in subsection 1.

32 **4. Reporting.** The board shall provide the data collected pursuant to this section to  
33 the department for analysis. Using the data, the department shall assist the board in  
34 identifying specific factors that are necessary to the board's parole decision-making process  
35 and shall assist the board in securing training to facilitate the board's future decision  
36 making.

37 **5. Report to the Legislature.** By January 15, 2022, the board shall report to the Joint  
38 Standing Committee on Criminal Justice and Public Safety regarding the implementation  
39 of this subchapter. Thereafter, annually by January 15th, the board shall update the report  
40 and make a presentation to the joint standing committee of the Legislature having  
41 jurisdiction over corrections matters regarding the operations of the board pursuant to this  
42 subchapter. Data may be reported only in the aggregate.

1           **6. Cooperation.** The department, the board and other criminal justice agencies shall  
2           cooperate in implementing this subchapter.

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### SUMMARY

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This bill establishes the option of parole for persons sentenced to the custody of the Department of Corrections. Current law provides that only persons in the custody of the Department of Corrections pursuant to a sentence imposed under the law in effect before May 1, 1976 may apply for parole. This bill incorporates the concepts of positive reentry parole, is modeled in part on a parole law from the State of Colorado and uses some of the technical aspects of Maine's existing parole law.

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Date: (Filing No. H- )

**JUDICIARY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 610, L.D. 842, “An Act To Reestablish Parole”

Amend the bill by inserting before section 1 the following:

**'Sec. 1. 34-A MRSA §5201**, as amended by PL 1989, c. 503, Pt, B, §160, is further amended to read:

**§5201. Establishment**

There is established, by Title 5, section 12004-G, subsection 7, within the Department of Corrections, a State Parole Board consisting of 5 ~~7~~ members.

**Sec. 2. 34-A MRSA §5202**, as enacted by PL 1983, c. 459, §6, is amended to read:

**§5202. Appointment**

The Governor shall appoint as the 5 ~~7~~ members of the board persons who:

- 1. Citizens and residents.** Are citizens and residents of the State; and
- 2. Training or experience.** Have special training or experience in law, sociology, psychology or related branches of social science; as follows:
  - A. One member must be a psychiatrist;
  - B. One member must be a psychologist;
  - C. One member must be a representative of a statewide organization of defense attorneys who is an attorney admitted to practice in this State and in good standing;
  - D. One member must be a prosecutor;
  - E. One member must be professionally trained in correctional work or in some closely related general field such as social work;
  - F. One member must be a law enforcement officer; and
  - G. One member must be a representative of a statewide civil liberties organization.

**COMMITTEE AMENDMENT**

1 All 7 members must have a demonstrated interest in social welfare problems.

2 **Sec. 3. 34-A MRSA §5206**, as enacted by PL 1983, c. 459, §6, is amended to read:

3 **§5206. Meetings**

4 **1. Chairman Chair.** The members of the board shall elect a chairman chair who shall  
5 preside at all meetings of the board when ~~he~~ is present.

6 **2. Frequency.** The board shall meet at least once every 2 months and may meet as  
7 often as necessary, at such times and places as the chairman chair may designate.

8 **3. Quorum.** Any ~~3~~ 4 members constitute a quorum for the exercise of all powers of  
9 the board.

10 **Sec. 4. 34-A MRSA §5209, sub-§3**, as enacted by PL 1983, c. 459, §6, is amended  
11 to read:

12 **3. Duties.** The administrative assistant shall perform those duties assigned ~~to him~~ by  
13 the board.

14 **Sec. 5. 34-A MRSA §5210, sub-§4**, as enacted by PL 1983, c. 459, §6, is amended  
15 to read:

16 **4. Advice to Governor.** When requested by the Governor, advise ~~him~~ the Governor  
17 concerning applications for pardon, reprieve or commutation.

18 A. The board shall hold hearings, cause an investigation to be made and collect records  
19 to determine the facts and circumstances of a committed offender's crime, ~~his~~ past  
20 criminal record, ~~his~~ social history and ~~his~~ physical and mental condition as may bear  
21 on the application.

22 B. The board shall make recommendations regarding action by the Governor on the  
23 application.

24 C. All information obtained under this subsection, and any report furnished to the  
25 Governor under this subsection, is confidential.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
27 number to read consecutively.

28 **SUMMARY**

29 This amendment is a minority report of the committee. It expands the Department of  
30 Corrections, State Parole Board from 5 to 7 members and specifies the specific training and  
31 experience required. It also updates the quorum requirements to be consistent with 7  
32 members on the board and removes gender-specific terms.

**APPENDIX K**  
**Written Testimony Submissions**

## Written Testimony Submissions

*The commission held public comment periods and accepted written testimony throughout the course of its work. Unlike testimony on a bill, public comment was not solicited in the form of being in support or opposition to a particular proposal or idea. Rather, the testimony received was open-ended and spoke to the topic of reinstatement of parole in Maine, generally.*

*This appendix lists the names of those who submitted testimony to the commission in writing, including residents of Maine's correctional facilities. We've done our best to represent the names accurately and to categorize their submissions based on the content of the testimony.*

To view the written testimony submitted by those listed below, use the following link: <https://legislature.maine.gov/doc/9484>

Generally support reestablishing parole in Maine:	Generally against reestablishing parole in Maine:	Not specifically in support or against reestablishing parole in Maine:
Alexandra Adler	Joanna Stokinger	Thomas G. Gutheil
Andrew Barchus		Ellen M. Taylor
April Hayes		
Calista Cross		
Deborah Meehan		
Desiree-Anne Martin		
Diana Tuite		
Ed Modell		
Merle Rockwell		
Foster Bates		
Nadim Haque		
James Fine		
John		
Jon Courtney-Parole4Me		
Ryan Hopkins		
Kathy Durgin-Leighton, RJPM		
Katrina Bridges		
Kelly Taylor		
Laura L. Kirk		
Richard A. McGachern		
Adam Goves		
Abdi Nur		
Victor Frascone		
Lydia Moland		
Maine Prisoner Advocacy Coalition (written testimony includes several names)		
Michael L. Perfin		
NAACP (written testimony includes several names)		
Paley Burlin		
Peter Cooke		
Rebecca Boyd		
Sarah Conway		
Sarah Mattox		
Savannah Smith		
Shayna Marlowe		
Stephanie Hynes		
Steven Clark		
Wendy Loker		