



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 841

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H.P. 609

House of Representatives, March 8, 2021

### **An Act Regarding Probation and Deferred Disposition**

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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 WARREN of Hallowell.

Cosponsored by Representatives: EVANGELOS of Friendship, MORALES of South Portland, PICKETT of Dixfield, RECKITT of South Portland, Senators: DESCHAMBAULT of York, MAXMIN of Lincoln.

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

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

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

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

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

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 A, §2, is repealed  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

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

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

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

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

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

33 C. The person waives the presumption of probation.

34 **3. Class C crimes.** Probation is presumed to be the appropriate sentencing alternative  
35 for Class C crimes established in:

36 A. Title 1, section 202;

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

38 C. Title 9-B, section 466;

39 D. Title 10, sections 1101 and 1102;

40 E. Title 15, section 1091;

- 1            F. Title 17-A, chapter 15; section 405; section 433; section 602; chapter 29; and
- 2            chapter 45;
- 3            G. Title 20-A, section 10802;
- 4            H. Title 21-A;
- 5            I. Title 22, section 7251;
- 6            J. Title 29-A, section 2106;
- 7            K. Title 30-A, section 5802;
- 8            L. Title 32, sections 11304 and 16508;
- 9            M. Title 34-B, section 3805;
- 10           N. Title 35-A, section 1507-A; and
- 11           O. Title 38, section 1319-T.

12           **Sec. 4. 17-A MRSA §1812, sub-§4**, as enacted by PL 2019, c. 113, Pt. A, §2, is  
13 amended to read:

14           **4. Failure to comply with requirement of probation.** If the alleged violation does  
15 not constitute a crime and the court finds by a preponderance of the evidence that the person  
16 on probation has inexcusably failed to comply with a requirement imposed as a condition  
17 of probation, it may ~~revoke probation~~ impose a term of imprisonment of up to 60 days for  
18 the first violation considered by the court that does not constitute a crime and up to 120  
19 days for the 2nd violation considered by the court that does not constitute a crime. The  
20 court may revoke probation for the 3rd violation considered by the court that does not  
21 constitute a crime.

22           **Sec. 5. 17-A MRSA §1901**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended  
23 to read:

24           **§1901. Eligibility for deferred disposition**

25           A person who has pleaded guilty to unlawful possession of a scheduled drug under  
26 section 1107-A, subsection 1, paragraph A or a Class C, Class D or Class E crime and who  
27 consents to a deferred disposition in writing is eligible for a deferred disposition.

28           **SUMMARY**

29           This bill provides for a presumption of probation as the sentence for certain Class C  
30 crimes and provides for penalties for first and subsequent violations of probation. The bill  
31 also makes deferred disposition available for a person who pleads guilty to unlawful  
32 possession of a scheduled drug under the Maine Revised Statutes, Title 17-A, section  
33 1107-A, subsection 1, paragraph A.