



127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1674

S.P. 686

In Senate, March 23, 2016

An Act To Create Community Substance Abuse Programs

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator ROSEN of Hancock. (GOVERNOR'S BILL)

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

2 **Sec. 1. 17-A MRSA §1107-A, sub-§6** is enacted to read:

3 6. Notwithstanding any provision of this Title to the contrary, the court shall
4 sentence a person convicted under this section to a term of imprisonment of 364 days for
5 a Class D or Class E crime and to not less than one year for a Class B or Class C crime,
6 not to exceed the maximum sentence authorized for the crime, as long as:

7 A. The person has not been previously convicted of a crime under this chapter, with
8 the exception of sections 1108, 1109, 1111 and 1111-A; and

9 B. The person has not been previously convicted of a crime under chapter 9, 11, 12,
10 13, 27, 31, 33 or 41 or section 852 or 853.

11 For a person sentenced under this subsection, the court shall suspend the entire term of
12 imprisonment and sentence the person to a period of probation of not less than one year
13 but no more than the maximum sentence authorized for the crime.

14 **Sec. 2. 17-A MRSA §1201, sub-§1, ¶A-1**, as amended by PL 2013, c. 194, §11,
15 is further amended to read:

16 A-1. The conviction is for a Class D or Class E crime other than:

17 (1) A Class D or Class E crime relative to which, based upon both the written
18 agreement of the parties and a court finding, the facts and circumstances of the
19 underlying criminal episode giving rise to the conviction generated probable
20 cause to believe the defendant had committed a Class A, Class B or Class C
21 crime in the course of that criminal episode and, as agreed upon in writing by the
22 parties and found by the court, the defendant has no prior conviction for murder
23 or for a Class A, Class B or Class C crime and has not been placed on probation
24 pursuant to this subparagraph on any prior occasion;

25 (2) A Class D crime that the State pleads and proves was committed against a
26 family or household member or a dating partner under chapter 9 or 13 or section
27 554, 555 or 758. As used in this subparagraph, "family or household member"
28 has the same meaning as in Title 19-A, section 4002, subsection 4; "dating
29 partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A;

30 (2-A) A Class D crime under Title 5, section 4659, subsection 1, Title 15,
31 section 321, subsection 6 or Title 19-A, section 4011, subsection 1;

32 (3) A Class D or Class E crime in chapter 11 or 12;

33 (4) A Class D crime under section 210-A;

34 (4-A) A Class E crime under section 552;

35 (5) A Class D or Class E crime under section 556, section 854, excluding
36 subsection 1, paragraph A, subparagraph (1), or section 855;

37 (6) A Class D crime in chapter 45 relating to a schedule W drug;

1 (7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A,
2 paragraph B;

3 (8) A Class D crime under Title 17, section 1031; ~~or~~

4 (10) A Class E crime under Title 15, section 1092, subsection 1, paragraph A, if
5 the condition of release violated is specified in Title 15, section 1026, subsection
6 3, paragraph A, subparagraph (5) or (8) and the underlying crime involved
7 domestic violence; ~~or~~

8 (11) A Class D or Class E crime under section 1107-A.

9 **Sec. 3. 17-A MRSA §1204, sub-§2-B** is enacted to read:

10 **2-B.** Notwithstanding any provision of this chapter to the contrary, in addition to
11 any other conditions of probation, the court shall require a person sentenced under section
12 1107-A, subsection 6, as a condition of probation, to complete a certified community
13 substance abuse program established pursuant to Title 30-A, section 1659-B and certified
14 pursuant to Title 34-A, section 1206-B. If the person fails to successfully complete the
15 community substance abuse program, as described in Title 30-A, section 1659-B,
16 subsection 3, the court shall revoke the probation of the person, vacate the suspension of
17 the term of imprisonment in whole and commit the person to the Department of
18 Corrections. Failure to successfully complete the community substance abuse program is
19 considered only as a violation of probation and may not, in itself, authorize involuntary
20 treatment or hospitalization.

21 **Sec. 4. 30-A MRSA §1659-B** is enacted to read:

22 **§1659-B. Community substance abuse program**

23 **1. Establishment and certification of program.** The sheriff in charge of a county
24 jail or the sheriffs of counties that share a regional jail shall establish at that sheriff's
25 county jail or those sheriffs' regional jail a community substance abuse program, referred
26 to in this section as "the program." The program must be administered by the county or,
27 in the case of a regional jail, the counties sharing that regional jail and must meet the
28 certification requirements of the Department of Corrections adopted by rule pursuant to
29 Title 34-A, section 1206-B. The program is for a person sentenced under Title 17-A,
30 section 1107-A, subsection 6 and required to participate as a condition of probation
31 pursuant to Title 17-A, section 1204, subsection 2-B.

32 **2. Program participant requirements.** The requirements of this subsection apply
33 to a person participating in the program.

34 A. The person must be electronically monitored.

35 B. The person may not use alcohol or illegal drugs or other illegal substances and
36 may not abuse any legal substance.

37 C. The person shall submit to daily urinalysis, breath testing or other chemical tests
38 at the regional or county jail.

1 annually reimburse counties for the cost of the community substance abuse programs that
2 meet the department's certification requirements.

3 A person participating in a program must comply with certain requirements in order
4 to successfully complete the program, including submitting to electronic monitoring and
5 daily testing for illegal drug and alcohol use, and must participate in the program for 12
6 months. If a person fails to successfully complete the program, the court is required to
7 revoke the probation for that person and that person must serve the unsuspended portion
8 of the sentence in the custody of the Department of Corrections.