



HOUSE OF REPRESENTATIVES

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Testimony of Representative Nina Milliken presenting
**LD 1941, An Act to Implement Recommendations of the Commission to
Examine Reestablishing Parole**
Before the Joint Standing Committee on Judiciary

Good afternoon, Senator Carney, Representative Kuhn and esteemed colleagues on the Joint Standing Committee on Judiciary. It is very nice to see you all and happy 2026! My name is Nina Milliken, and I am honored to represent the people of Blue Hill, Brooksville, Castine, Sedgwick, Surry and Trenton in the Maine House. I am happy to be before you today to present my bill **LD 1941, An Act to Implement Recommendations of the Commission to Examine Reestablishing Parole**.

I would also like to take a quick moment to say good afternoon to the men and women who are confined to Maine's prisons. I understand that this hearing is being live broadcast at each of the prisons in Maine that requested access. Many men and women in our prisons took time to write testimony in support of this bill. I appreciate their efforts and I hope the members will take time to read their words. I believe some of them will be read in this hearing also.

If prisons made us safer, the United States would be the safest place on earth.

We are not even close.

The so-called land of the free has the largest incarcerated population in the entire world—larger than any other nation, and larger than many nations combined. And Maine, unfortunately, has not been immune from this national failure.

In 1976, Maine became the very first state in the country to abolish parole. Sixteen others followed. The result here was entirely predictable: sentences ballooned—by roughly 20 percent—and Maine became one of the harshest sentencing states in a country already addicted to incarceration.

These facts have consequences.

Since parole was abolished, Maine's prison population has more than tripled. The men and women in our custody are getting older. They are sicker. Their medical needs are more acute and far more

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expensive. All of this comes at an enormous cost to Maine taxpayers. But beyond the dollars, it reveals something deeper and more troubling: that as a state, we have built a system that no longer believes in redemption, rehabilitation, or—frankly—corrections at all.

Several months ago, I stood in the chapel at Maine State Prison. I listened as a group of men spoke about what parole would mean to them if it were restored.

One man, likely in his mid-70s and confined to a wheelchair, told us about a counseling group he participated in during the mid-1990s. At that time, then-Warden Martin Magnusson met with the group and told this man directly that he supported parole and believed he would be a good candidate for release. By then, the man had already spent years in prison.

I want you to sit with that for a moment.

I was standing in that chapel in 2025. In 1995, this man was told by the warden of Maine State Prison that he believed he had been rehabilitated and could safely be returned to community.

Thirty years later, he is still there—confined to a wheelchair—and he will almost certainly die there.

Bill Clinton was president when he was told he was ready to go home. 9/11 hadn't happened yet. I was about seven years old.

If this man had been healthy all that time, the State of Maine has spent more than \$3.6 million incarcerating him since he was deemed rehabilitated. Given his age and his obvious medical needs, I suspect the true cost is far higher. And to what end? What public safety benefit do we gain from keeping him there?

He told us there were nearly ten men in that group. Almost all of them had been told the same thing by Warden Magnusson—that he would trust them in community. Some were eventually released successfully. The rest have died in prison. He is the last one left.

Millions and millions of dollars spent. Lives wasted. Families broken. And for what?

This committee knows better than anyone the State of Maine's indigent defense system. This crisis has existed for years, and the real-world consequences are devastating. There are people in our prisons today who are there simply because they were too poor to afford an effective defense.

I was recently told by a man at Mountain View Correctional Facility that he has pleaded guilty to crimes he did not commit just to get out of jail. He sat for weeks and months without consistent access to a defense attorney. Prosecutors offered him deals: plead to a lesser charge, get time served, go home. So he did. Again and again. Not because he was guilty—but because he was trapped.

That should horrify every one of us.

Last year, this committee made an important and thoughtful change to sentencing law by requiring judges to consider a defendant's age. That was the right thing to do, and I thank you for it. This committee has made many such improvements over the years as our understanding of justice evolves.

But here is the problem: when we change our understanding of justice, we do not look back.

People remain incarcerated under standards we now openly acknowledge were unjust. I recently had a prosecutor tell me that if certain defendants were sentenced today for the same conduct, they would never receive the sentences they are currently serving. That honesty is appreciated—but it offers no relief to the men and women still languishing behind bars.

That is not justice.

It is unconscionable to know that we are keeping people in prison who do not need to be there. When you really sit with what that means, your heart breaks. We keep dying men from their families. We keep sons from their mothers. We keep mothers from their children.

At the Women's Center in Windham, nearly every woman is herself a survivor of abuse. Many committed the acts that brought them there while being abused by the men in their lives. Some are incarcerated for harming the very men who were hurting them.

Parole does not guarantee release. It guarantees review. It provides a mechanism for accountability, for mercy, for wisdom informed by time and growth. It restores incentive for rehabilitation and meaning to the word "corrections."

This bill asks us to believe again—in people, in change, and in justice that is not frozen in time.

A couple quick things before I wrap up: I asked your wonderful analysts to draft a big amendment for me to try to meet some of the needs articulated by the Maine Coalition to End Domestic Violence when they came before you in November about this bill. I appreciate Mr. Murphy's quick turnaround during a very busy and chaotic time. There are a couple things that were missed, though (my mistake!). Here are a few changes I would like to be considered by the committee:

1. In the part of the bill about revocation, there is currently listed a clear and convincing evidence standard. I think there should be a preponderance of the evidence standard.
2. Parole should be able to be revoked for technical violations, though I believe the least restrictive measures should be taken.
3. Currently, the bill indicates that a $\frac{1}{3}$ of a sentence would need to be served before a person could apply for parole. I think it should be increased to $\frac{1}{2}$ or 20 years, whichever comes first.

I urge this committee to support restoring parole in Maine. Please vote in support of LD 1941. I appreciate your time and I will be happy to try to answer any questions you might have.

SPONSORS AMENDMENT TO

**An Act to Implement Recommendations of the Commission to Examine
Reestablishing Parole**

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

PART A

Sec. A-1. 5 MRSA §12004-G, sub-§7, as enacted by PL 1987, c. 786, §5, is amended to read:

7.

Corrections State Maine Parole Board

Legislative Per
Diem

34-A MRSA
§5201

Sec. A-2. 34-A MRSA §5001, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. **Board.** "Board" means the State Maine Parole Board.

Sec. A-3. 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 the Maine Parole Board, consisting of 5 7 members.

Sec. A-4. 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: meet the requirements of this section, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmation by the Legislature.

1. **Citizens and residents.** ~~Are citizens~~ Each member of the board must be a citizen and residents a resident of the State; and,

2. ~~Training or experience.~~ Have special training or experience in law, sociology, psychology or related branches of social science.

3. **Demographics, training and experience.** Beginning on the effective date of this subsection, the Governor shall make every effort to ensure that the racial and gender demographic makeup of the board reflects the racial and gender demographic makeup of the individuals who were in the custody of the department and within correctional facilities as reported by the commissioner during the previous calendar year. At least one member of the board must be a mental health professional; at least one member of the board must be an attorney licensed to practice law in this State; at least one member of the board must have expertise and experience in the clinical treatment of individuals who commit sexual violence offenses; at least one member of the board must be a member of a historically disadvantaged racial population of the State; at least one member must be a woman and at least one member of the board must be a formerly incarcerated individual. All other members of the board must have special training or experience in law, sociology, psychology or related branches of social science.

Sec. A-5. 34-A MRSA §5203, as enacted by PL 1983, c. 459, §6, is amended to read:

§5203. Terms

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The terms of the members of the board are: governed by the provisions of this section.

1. Four years; reappointment. Four Members are appointed for terms of 4 years plus the time period until their successors have been appointed and qualified; or and may be reappointed. A member may not be appointed to serve more than 2 consecutive 4-year terms. A member continues to serve until that member has been reappointed or a successor has been appointed and qualified, except that a member may not serve for more than 8 consecutive years.

~~**2. Pleasure of Governor.** During the pleasure of the Governor.~~

Sec. A-6. 34-A MRSA §5206, as enacted by PL 1983, c. 459, §6, is amended to read:

§5206. Meetings

1. Chairman Chair. The members of the board shall annually elect a chairman chair who shall preside at all meetings of the board when ~~he~~ is present.

2. Frequency. The board shall meet at least once every ~~2 months~~ month and may meet as often as necessary, at such times and places as the ~~chairman~~ board may designate by majority vote.

3. Quorum. Any ~~3~~ 5 members constitute a quorum for the exercise of all powers of the board.

Sec. A-7. 34-A MRSA §5208, as amended by PL 1995, c. 502, Pt. F, §32, is further amended to read:

§5208. Annual report

1. Preparation of report. ~~After June 30th of each year, the~~ The commissioner shall prepare a detailed report of the work of the board and of probation and parole activities for the preceding fiscal calendar year and send the report to the Governor as required by subsection 2. Beginning January 2026, the report must include an update on the implementation of subchapter 6 and any data collected and data analysis performed pursuant to section 5832.

2. Commissioner's duty Submission of report. The commissioner shall send the annual report to the Governor for submission to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2026, and annually thereafter.

Sec. A-9. 34-A MRSA §5211, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. Rules. The board may promulgate adopt rules, ~~in accordance with the Administrative Procedure Act, Title 5, chapter 375, pertaining to its functions set out in this chapter.~~ Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-10. 34-A MRSA §5212 is enacted to read:

§5212. Annual training

The board shall arrange for annual training of board members from experts in the field regarding best practices in evaluating applications for parole, in interpreting the results of the evaluations, in evaluating the validity of actuarial evidence-based risk assessments as defined in section 5822, subsection 2 and in designing appropriate conditions of parole.

Sec. A-11. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 34-A, section 5203, subsection 1, the Governor shall, for the first 7 appointments made to the Maine Parole Board after the effective date of this Act, specify the calendar year in which each member's term expires in a manner that ensures that the terms of no more than 3 members of the board are scheduled to expire in any one calendar year. In no event may the Governor appoint a member to the board for a term exceeding 4 years.

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Sec. A-12. Reappointment. Notwithstanding the Maine Revised Statutes, Title 34-A, section 5203, subsection 1, an individual who is a member of the State Parole Board on the effective date of this Act may be reappointed by the Governor. After a single reappointment of the member, the term of office for that member must comply with the requirements of Title 34-A, section 5203, subsection 1.

Sec. A-13. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "State Parole Board" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Maine Parole Board" or "board" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART B

Sec. B-1. 34-A MRSA c. 5, sub-c. 6 is enacted to read:

SUBCHAPTER 6

PAROLE

§5821. Applicability

This subchapter applies to all persons in the custody of the Department of Corrections, except for persons in the custody of the department pursuant to a sentence imposed under the law in effect prior to May 1, 1976.

§5822. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Abscond. "Abscond" means, with respect to an individual on parole, the failure to remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the individual's probation and parole officer.

2. Actuarial evidence-based risk assessment. "Actuarial evidence-based risk assessment" means a validated, evidence-based tool created and modified as necessary to predict the likelihood that an individual will pose a threat to others or engage in different types of criminal behavior, including violent criminal behavior, within a given time period.

3. Applicant. "Applicant" means an individual who has applied for parole pursuant to section 5824.

4. Evidence-based programming. "Evidence-based programming" means strategies and interventions that have been evaluated using empirical research and proven to increase the likelihood of achieving desired outcomes.

5. Victim. "Victim" means a victim of the underlying crime for which a specific applicant or parolee was sentenced to the term of imprisonment for which a period of parole has been requested or has been granted.

§5823. Parole by board

1. Authority to grant or revoke parole. The board may, by majority vote, grant or revoke parole as provided in this subsection.

A. The board may grant parole from a correctional facility after the expiration of the term of imprisonment, less deductions as provided in Title 17-A, chapter 81.

B. The board may grant parole from a correctional facility to and impose conditions of parole on an applicant who satisfies the eligibility requirements set forth in section 5824, subsections 1 and 2.

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C. The board may revoke parole or modify the conditions of parole when a parolee violates a condition of that parolee's parole.

2. Duration of parole. When the board grants a parole, upon release, the parolee shall serve the unexpired portion of the parolee's sentence, less deductions as provided in Title 17-A, chapter 81, subject to the conditions of parole set forth in subsection 3, ~~unless otherwise ordered by the board.~~

3. Custody and conditions. While on parole, the parolee is under the custody of the chief administrative officer of the correctional facility from which the parolee was released but under the immediate supervision of and subject to the rules of the department and any conditions of parole imposed by the board pursuant to section 5825, subsection 7.

§5824. Application and eligibility for parole; rulemaking

1. General provisions regarding eligibility. Except as provided in subsection 2 and as specified by the board in a parole revocation order, an individual convicted of one or more crimes who is incarcerated and in the custody of the department is eligible for parole upon application if the applicant has completed a parole preparation program offered by the department within 90 days prior to applying for parole and if:

A. The individual's sentence was imprisonment for life ~~with the possibility of parole~~ and the individual has served at least 20 years of that sentence; or

B. The individual's aggregate sentence, including any concurrent sentences, was for a definite term of not less than ~~5~~ 10 years, and the individual has served no less than 1/3 of the aggregate, unsuspended portion of that sentence or at least 20 years of that sentence, whichever is less.

2. Additional eligibility requirements. In addition to meeting the requirements of subsection 1, paragraph A or B, an applicant for parole who is serving a sentence imposed, at least in part, on the basis of the applicant's conviction for:

A. One or more offenses in Title 17-A, chapter 11 or 12, is not eligible for parole unless the applicant has completed intensive, evidence-based programming for sex offenders while incarcerated;

B. One or more offenses in which the victim was a family or household member, as defined in Title 19-A, section 4102, subsection 6, is not eligible for parole unless the applicant has completed intensive, evidence-based programming for domestic violence offenders while incarcerated; and

C. One or more offenses in Title 17-A, chapter 11, 12 or 35 in which at least one victim was a minor at the time of the offense is not eligible for parole until all of the minor victims have attained 25 years of age.

3. Parole and parole revocation guidelines; rulemaking. The board shall, by rule, develop parole guidelines for use by the board in evaluating applications for parole as described in section 5826 and parole revocation guidelines as described in section 5828 for use by the board in considering revocation of parole.

§5825. Procedure

1. Preliminary review. Upon a preliminary determination that an applicant is eligible for parole as described in section 5824, subsections 1 and 2, the board shall schedule a hearing to be held within 60 days after the date that the application was submitted or within 60 days after the date that the applicant appears to have met the eligibility requirements of section 5824, subsections 1 and 2, whichever is later.

2. Motion to extend time for hearing. Upon motion of the applicant, the department or the board, the board may extend the date of the hearing once, for no more than 30 days, for good cause shown. If the board extends the hearing date as provided in this subsection, the board must send notice of the new hearing date and the reason for the extension to the department, to the applicant and, if counsel has entered an appearance for the applicant before the board, to the applicant's counsel.

3. Mandatory discovery. No later than 30 days before the date of the hearing, the department shall provide copies to the applicant or to the applicant's counsel, if any, of all documents that the department submitted to the board in response to the application. Before providing copies to the applicant or the applicant's counsel, the department shall redact any information made confidential pursuant to law or by order of a court and may also redact any other information if the commissioner concludes that disclosure of that information would jeopardize the health or safety of any person other than the applicant. If any material is redacted, the department shall identify the basis for the redaction and summarize the redacted information to the extent possible without revealing the confidential information or information that would jeopardize the health or safety of any person other than the applicant.

4. Challenge to department's documentary evidence; automatic stay. No later than 10 days after receiving documents pursuant to subsection 3, the applicant may file a motion in the court that imposed the sentence currently being served by the defendant to challenge the accuracy of or redaction by the department of any information in those documents. The applicant shall immediately notify the board and the department of any motion filed under this subsection. The department may file a response within 5 days of receiving the motion. Within 30 days of receiving the motion, the court shall, with or without hearing, issue a decision either denying the motion or ordering that the department correct, modify or supplement the documents, and the court shall provide a copy of the decision to the applicant, the board and the department. The court may, for good cause shown, extend the time for issuing its decision on the motion once by no more than 30 days. If the court orders that the department correct or supplement the documents, the department shall, within 15 days of the date of the court's decision, send copies of the corrected, modified or supplemented documents to the board, the applicant, the applicant's counsel, if any, and any other agency to which the department has, within the preceding 12 months, submitted any of the information in the underlying documents that was the subject of the court-ordered correction, modification or supplementation.

The proceedings before the board on an applicant's request for parole are automatically stayed during the pendency of a motion filed under this subsection. The board shall schedule a parole hearing to be held within 30 days after the date that the court enters an order resolving the motion.

5. Hearing procedure. The hearing on an application for parole must be video recorded, and the applicant may be represented by legal counsel at the hearing. The board may review any documentary evidence submitted by the department in accordance with the requirements of this section and receive testimony from the applicant and testimony from any victim as described in section 5831, subsection 2.

6. Decision. After considering the evidence presented and after applying the parole guidelines, the board shall notify the applicant and the department in writing of its final decision on the application within 14 days after the date of the hearing.

7. Parole granted; conditions of parole. If, after hearing, the board grants the parole application, the board shall impose conditions of parole in accordance with the provisions of this subsection.

A. The conditions imposed by the board must include each of the mandatory conditions that would apply to release on supervised community confinement set forth in section 3036-A, subsection 3, paragraphs A to I.

B. In addition to the mandatory conditions under paragraph A, if the board determines based on the nature and circumstance of the offense that led to the parolee's incarceration and the individual characteristics and criminal history of the parolee that a condition in subparagraphs (1) to (3) is necessary to mitigate the risk that the parolee will again violate the law, the conditions imposed by the board may include the following:

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- (1) To the extent that the board determines that the parolee has financial resources, a requirement that the parolee pay part or all of the costs to the State of the parolee's parole;
- (2) Any condition that may be imposed as a condition of probation pursuant to Title 17-A, section 1807; and
- (3) Any condition that the board determines would be appropriate for the parolee, except that the conditions may not be more stringent than those that could be constitutionally imposed if the parolee were incarcerated in a maximum security correctional facility.

8. Parole denied; appeal. If, after hearing, the board denies the parole application, the board shall notify the applicant and the department, in writing, of the reasons for the denial and specifying the date, which must be between one and 5 years after the date of the denial, after which the applicant may submit a new application for parole. In fixing this date, the board shall consider the input from the victim, if any, and the application of the parole guidelines. The board shall specify in the written notice of denial the parole guideline factors that weighed against the applicant and the specific programs the applicant must complete or other activities the applicant must undertake to succeed in a subsequent parole application. The applicant may appeal to the Superior Court from a decision of the board denying the parole application in accordance with Rule 80C of the Maine Rules of Civil Procedure.

§5826. Parole guidelines

1. Parole guidelines. In accordance with the requirements of this section, the board shall, by rule, develop parole guidelines describing the risk assessment criteria that the board must consider in evaluating an application for parole. The parole guidelines must include a matrix of parole release decision recommendations for different risk levels.

2. Actuarial evidence-based risk assessment. The parole guidelines must require that each applicant be evaluated using an actuarial evidence-based risk assessment and direct that the outcome of this assessment is the central factor that the board must consider in making its decision regarding the timing of and conditions of release on parole. The board shall consult with the Permanent Commission on the Status of Racial, Indigenous and Tribal Populations as established by Title 5, section 12004-J, subsection 19 and other relevant persons identified by the permanent commission in selecting an actuarial evidence-based risk assessment, giving due regard to the racial bias inherent in many extant assessments. The board shall, at least once every 5 years, reevaluate the predictive accuracy of the actuarial evidence-based risk assessment as determined by data compiled by the board including, at a minimum, data regarding the recidivism rate of individuals granted parole under this subchapter.

3. Other factors. In addition to the actuarial evidence-based risk assessment described in subsection 2, the parole guidelines must require that the board consider at least the following additional criteria in making its decision regarding the timing of and conditions of release on parole:

- A. Any testimony or written statement from the victim, the victim's designee or a relative of the victim;
- B. The applicant's program and treatment participation and progress while in custody;
- C. The applicant's conduct, including the performance of any community service, while in custody;
- D. The adequacy of the applicant's parole plan;
- E. Whether, while the applicant has been in custody, the applicant has threatened or harassed the victim or the victim's family or has caused the victim or the victim's family to be harassed by another person;
- F. The testimony or written statement of a prospective parole sponsor, employer or other person who is available to assist the applicant if the applicant is released on parole;

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G. Whether the applicant has previously absconded or escaped or attempted to abscond or escape while on conditional release;

H. Whether the applicant completed or worked toward completing a high school diploma, a high school equivalency diploma or a college degree while the applicant was in custody;

I. Any aggravating or mitigating factors from the conviction leading to the applicant's current incarceration; and

J. Any other factor that the board determines appropriate or necessary.

4. Parole guidelines for applicants convicted of sex offenses. The board shall, by rule, develop separate parole guidelines that the board must consider in evaluating an application for parole from an applicant who is serving a sentence imposed, at least in part, on the basis of the applicant's conviction for one or more offenses in Title 17-A, chapter 11 or 12. The parole guidelines developed under this subsection must include a matrix of parole release decision recommendations for different risk levels; must include the adoption of an actuarial evidence-based risk assessment specific to applicants convicted of sex offenses that complies with the requirements of subsection 2; and must require the board to consider additional factors in accordance with subsection 3.

5. Parole guidelines for applicants convicted of domestic violence offenses. The board shall, by rule, develop separate parole guidelines that the board must consider in evaluating an application for parole from an applicant who is serving a sentence imposed, at least in part, on the basis of the applicant's conviction for one or more offenses in which the victim was a family or household member as defined in Title 19-A, section 4102, subsection 6. The parole guidelines developed under this subsection must include a matrix of parole release decision recommendations for different risk levels; must include the adoption of an actuarial evidence-based risk assessment specific to applicants convicted of domestic violence offenses that complies with the requirements of subsection 2; and must require the board to consider additional factors in accordance with subsection 3.

6. Structured decision making. The board shall adopt standards for evaluating outcomes of its parole decisions and shall conduct its business in a manner that is accessible to victims, applicants, criminal justice professionals and the community. The board shall develop and use forms for recording a decision whether to grant or to deny parole and, if parole is granted, identifying the conditions of parole, that accurately capture the board's rationale, including how the board applied the parole guidelines. The board shall ensure that the identity of any victim and any input received from the victim is protected from display during any board hearing and on any form that may become part of an applicant's record.

7. Coordination of risk and needs. The board shall coordinate parole conditions and services with the assessed risk and needs as determined under the parole guidelines.

§5827. Violation of conditions of parole

1. Technical violation. If a parolee violates a condition of parole in a technical manner, as defined by the board by rule, a judge the probation and parole officer may impose any sanction authorized by the board by rule for technical violations. Any violation that includes a violation of an order imposing a condition of no contact with any named victim or with any minor children is not a technical violation.

2. Summons for violation. If a probation and parole officer has probable cause to believe that a parolee has violated a condition of parole in a manner that does not qualify as a technical violation under subsection 1 and the officer does not believe there is a direct threat to public safety, the officer shall serve a summons on the parolee directing the parolee to appear before the board for a parole revocation hearing and shall provide a copy of the summons to the board.

3. Arrest and detention for violation. If a probation and parole officer has probable cause to believe that a parolee has violated a condition of parole in a manner that does not qualify as a technical violation under subsection 1 and the officer believes there is a direct threat to public safety, the officer may arrest and charge the parolee with a violation of a condition of parole, take the parolee into custody and detain the parolee, pending issuance of a parole violation warrant under subsection 4. The detention may not extend beyond the next business day and, if the warrant is not issued in that time, the parolee must be released from arrest and detention. If a warrant is issued, the probation and parole officer shall comply with the detention and notice requirements of subsection 4. A parolee arrested and detained on the basis of an alleged violation of a condition of parole does not have a right of action against the officer or against any other person based on the arrest or detention.

4. Issuance of warrant for violation; tolling of sentence. If a probation and parole officer has probable cause to believe that a parolee has violated a condition of parole in a manner that does not qualify as a technical violation under subsection 1 and the officer believes there is a direct threat to public safety, the commissioner may issue a warrant for the parolee's arrest. If a warrant is issued, a probation and parole officer, or any other law enforcement officer within the State authorized to make arrests, may arrest the parolee and return the parolee to the correctional facility from which the parolee was paroled and notify the board of the arrest. After the issuance of a warrant under this subsection, the running of the parolee's sentence is tolled and remains tolled until the parolee is returned to the correctional facility from which the parolee was paroled. If the warrant is withdrawn before the parolee is arrested, the parolee must be credited with the time lost by the tolling of the running of the parolee's sentence under this subsection.

5. Parole revocation hearing. The board shall schedule a parole revocation hearing to be held within 30 days of the date that the board is notified of a summons under subsection 2 or an arrest under subsection 4. Upon motion of the applicant, the department or the board, the board may extend the date of the hearing once, for no more than 30 days, for good cause shown. If the board extends the hearing date as provided in this subsection, it must send notice of the new hearing date and the reason for the extension to the department, to the applicant and, if counsel has entered an appearance for the applicant before the board, to the applicant's counsel.

6. Hearing procedure; decision. The parole revocation hearing must be video recorded. At the hearing, the parolee may be represented by counsel and has the right to present evidence and to present and cross-examine witnesses. If the board finds after hearing that there is clear and convincing evidence demonstrating that the parolee violated a condition of parole as alleged and that the violation was not a technical violation under subsection 1, the board may either modify the conditions of parole or revoke the parole and remand the parolee to the correctional facility from which the parolee was paroled. If the board revokes the parole, the board shall specify the time that must expire before the parolee may reapply for parole in accordance with section 5824. If the board finds after hearing that there is not clear and convincing evidence demonstrating that the parolee violated a condition of parole or that the condition violated was not a technical violation under subsection 1, the underlying parole order remains in effect and, if the parolee was returned to a correctional facility under subsection 4, the parolee must be released and the parolee must be credited with the time lost by the tolling of the running of the parolee's sentence under subsection 4.

7. Deductions forfeited upon revocation. If the board revokes a parolee's parole under subsection 6, the parolee forfeits any deductions under Title 17-A, section 2305 or 2307 earned while on parole.

8. Earning deductions. While an individual is serving the unexpired portion of a sentence after parole has been revoked under subsection 6, the individual may earn deductions pursuant to Title 17-A, chapter 81.

§5828. Parole revocation guidelines

1. Parole revocation guidelines. In accordance with the requirements of this section, the board shall, by rule, develop parole revocation guidelines describing the criteria that the board must consider during a parole revocation hearing.

2. Actuarial evidence-based risk assessment. The parole revocation guidelines must require that each parolee subject to a parole revocation hearing be evaluated using an actuarial evidence-based risk assessment and direct that the outcome of this assessment is the central factor that the board must consider, after finding that the parolee violated a condition of parole, in deciding whether to revoke parole or to modify the conditions of parole. The board shall consult with the Permanent Commission on the Status of Racial, Indigenous and Tribal Populations as established by Title 5, section 12004-J, subsection 19 and other relevant persons identified by the permanent commission in selecting an actuarial evidence-based risk assessment, giving due regard to the racial bias inherent in many extant assessments. The board shall, at least once every 5 years, reevaluate the predictive accuracy of the actuarial evidence-based risk assessment as determined by data compiled by the board including, at a minimum, data regarding the recidivism rate of individuals granted parole under this subchapter.

3. Other factors. In addition to the actuarial evidence-based risk assessment described in subsection 2, the parole revocation guidelines must require that the board consider at least the following additional criteria in making its decision whether to revoke parole or to modify the conditions of parole:

- A. The seriousness and frequency of the parolee's violations of conditions of parole;
- B. Whether the parolee has been charged with or convicted of committing a crime while released on parole;
- C. The parolee's efforts to comply with any sanctions imposed under section 5827, subsection 1 for a technical violation of a condition of parole and with any modified conditions of parole imposed by the board under section 5827, subsection 6 for a previous violation of a condition of parole;
- D. Whether public safety can adequately be protected by modifying the conditions of parole;
- E. Any mitigating factors, including substance use disorder or mental health conditions, that may have contributed to the parolee's violation of a condition of parole; and
- F. Any other factor that the board determines appropriate or necessary.

4. Least restrictive sanction. The parole revocation guidelines must require, in making a decision whether to revoke parole or to modify the conditions of parole, that the board not revoke parole unless the board determines that public safety cannot adequately be protected by modifying the conditions of parole.

5. Time before reapplying for parole. The parole revocation guidelines must include guidelines for the board to apply when deciding the time that must expire before a parolee whose parole has been revoked may reapply for parole in accordance with section 5824.

§5829. Sentence for crime committed by parolee

Except as otherwise specified by a court imposing the sentence for a new crime, an individual who commits a new crime punishable by imprisonment for one year or more while on parole and who is sentenced to the custody of the department for the new crime must serve the sentence for the new crime concurrently with the unexpired portion of the sentence that was the subject of the individual's parole.

§5830. Discharge from parole

A parolee who faithfully satisfies all of the conditions of parole and who completes the parolee's sentence is entitled to a certificate of discharge to be issued by the chief administrative officer of the correctional facility to which the parolee was committed.

§5831. Victim rights

1. Notice. The Office of Victim Services, established in section 1214 and referred to in this section as "the office," shall make a good faith effort to notify each victim of the following with respect to the relevant applicant or parolee:

- A. That the applicant has applied for parole;
- B. The date of each parole hearing or parole revocation hearing;
- C. The outcome of each parole hearing, including information on any conditions of parole imposed by the board if parole was granted, and the outcome of each parole revocation hearing;
- D. The fact that the applicant has appealed a board decision denying parole; and
- E. The outcome of any appeal from a board decision denying parole.

2. Rights. When providing a notice under subsection 1, the office shall provide a victim with a pamphlet that summarizes in everyday language the provisions of this subchapter; informs the victim of any services or supports available to the victim and clearly explains how to access these services and supports, including any restorative justice programs, victim advocacy services and counseling for victims provided either by the department or by independent victim support organizations; and informs the victim that the victim has the following rights:

A. The victim may testify in person at the parole hearing or have another person of the victim's choosing read the victim's testimony at the parole hearing. If the victim testifies in person at or attends the parole hearing, the victim may be accompanied by a support person and may, with the assistance of the office, request that the board conduct the hearing outside of a correctional facility and request that the board exclude the applicant from the room during the victim's testimony; and

B. If the victim does not wish to testify at the parole hearing or have another person read the victim's testimony at the parole hearing, the victim may, prior to the parole hearing, submit to the office written or recorded testimony or may revise or retract any written or recorded testimony previously submitted to the office. The office must submit to the board the most recent written or recorded testimony received from the victim under this paragraph for consideration during the parole hearing.

3. Records. Any written or recorded testimony received by the board or by the office under this section may not be included in the applicant's or the parolee's records maintained by the department or a correctional facility.

§5832. Collection and analysis of data

1. Outcome data and analysis. The board shall develop and implement a process to collect and analyze data related to the basis for the outcomes of the board's determinations or decisions for granting, denying or revoking parole. Any data related to victim identification or victim input that is identifiable to the applicant or parolee or the applicant's or parolee's case must be maintained and kept confidential by the board and may be released only to other government agencies, pursuant to a nondisclosure agreement, for purposes of analysis and reporting only.

2. Recidivism data. When the board grants parole, the board ~~also~~ shall ~~also~~ collect data related to the type of reentry programs provided as part of the parolee's parole plan and whether the parolee is rearrested or returned to the correctional facility for a violation of a condition of parole or for a new criminal conviction ~~within the 3 years following the parolee's release on parole.~~

3. Record of conformance with or departure from guidelines. The board shall determine whether a decision granting or denying parole conformed with or departed from the parole guidelines developed under

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section 5826 and whether a decision revoking or not revoking parole conformed with or departed from the parole revocation guidelines developed under section 5828. If a decision was a departure from the guidelines, the data collected related to victim identification or victim input are subject to the same protections as in subsection 1.

4. Reporting. The board shall provide the data collected pursuant to this section to the commissioner for analysis and inclusion in the annual report required by section 5208. Using the data, the department shall assist the board in identifying specific factors that are necessary to the board's parole decision-making process and shall assist the board in securing training to facilitate the board's future decision making.

5. Record keeping. The board shall provide a copy of any decision granting or denying parole and of any decision revoking or not revoking parole to the correctional facility from which the parolee was paroled.

PART C

Sec. C-1. 17-A MRSA §1603, sub-§1, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

1. Sentence. A person convicted of the crime of murder must be sentenced to imprisonment for life, with or without the possibility of parole, or for any term of years that is not less than 25. The sentence of the court must specify the length of the sentence to be served and must commit the person to the Department of Corrections.

Sec. C-2. 17-A MRSA §1604, sub-§2, ¶A, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

A. In the case of the Class A crime of aggravated attempted murder, the court shall set a term of imprisonment under section 152-A, subsection 2 of life, with or without the possibility of parole, or a definite period of any term of years;

PART D

Sec. D-1. Applicability. Notwithstanding the Maine Revised Statutes, Title 34-A, section 5824, a person who is incarcerated and in the custody of the Department of Corrections on the effective date of this Act is not eligible for parole until at least 5 years after the effective date of this Act.

SUMMARY

This bill implements the recommendations of the Commission to Examine Reestablishing Parole, as established by Resolve 2021, chapter 126.

Part A of this bill renames the State Parole Board the Maine Parole Board and increases the membership of the board from 5 to 7 members appointed by the Governor, at least one of whom must be a formerly incarcerated individual. It also provides that member appointments must be reviewed by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmed by the Legislature, and members must receive annual training regarding best practices in evaluating applications for parole and designing appropriate conditions of parole.

Part B of the bill amends the laws governing parole. Current law provides that only individuals in the custody of the Department of Corrections pursuant to a sentence imposed under the law in effect before May 1, 1976 are eligible for parole. As recommended by the Commission to Examine Reestablishing Parole, this bill establishes the option of parole for individuals sentenced to the custody of the Department of Corrections after May 1, 1976. The bill incorporates the concepts of positive reentry parole; research and testimony presented to the Commission to Examine Reestablishing Parole by persons with expertise in victims' rights

and advocacy, probation and parole structure and restorative justice; and some of the technical aspects of Maine's existing parole law.

Part C of the bill amends the laws governing sentencing to provide that, when a person is sentenced to imprisonment for life, the sentencing court must specify whether the person is or is not eligible for parole.

Part D of the bill specifies that a person who is incarcerated and in the custody of the Department of Corrections on the effective date of this legislation is not eligible for parole until at least 5 years after the effective date of this legislation.