

**OFFICE OF POLICY AND LEGAL ANALYSIS
BILL ANALYSIS**

TO: Members, Joint Standing Committee on Criminal Justice and Public Safety

FROM: Jane Orbeton, Legislative Analyst

DATE: April 6, 2021

LD: 801, An Act Regarding Sentencing Options for a Person Convicted of a Crime Committed While Serving a Term of Imprisonment

Summary

This bill repeals the provision of law that provides that, when an individual serving a term of imprisonment is convicted of a crime committed while imprisoned or while imprisonment is stayed, the sentence is not concurrent with any undischarged term of imprisonment and no portion of the nonconcurrent sentence may be suspended.

This bill raises the same issues as Part A of the CLAC bill, LD 536, An Act to Amend the Maine Criminal Code. At issue is type of sentence that a court may impose for a crime committed while a person is serving a sentence or on a stay of execution of a sentence.

Testimony

Proponents:

1. Senator Miramant testified in support of the bill and submitted written testimony. Senator Miramant stressed in his testimony the need to give the court discretion in sentencing.
2. Jeremy Pratt, representing the Maine Association of Criminal Defense Lawyers (MACDL), testified in support and submitted written testimony also stressing the need for the court to have discretion in sentencing an offender for a crime committed while incarcerated or while a sentence of imprisonment is stayed.
3. Jan Collins, representing the Maine Prisoner Advocacy Coalition (MPAC), testified in support of the bill.
4. Michael Kebede, representing the ACLU, submitted testimony in favor of the bill on the grounds that the bill will grant discretion to judges to order a sentence that is appropriate to the crime and the offender.

Opponents:

1. Sheriff Ken Mason, Kennebec County, representing the Maine Sheriffs Association, testified in opposition to the bill.
2. Commissioner Liberty of the Department of Corrections submitted written testimony opposed to the bill. Anna Black, Director of Government Affairs for DOC, testified in opposition. Ms. Black cited DOC concerns for safety and security in correctional facilities and the need for

consecutive sentencing when a crime is committed by an imprisoned adult resident. Commissioner Liberty explained DOC's position that it is important for the court to be able to impose a nonconcurrent sentence when a person serving a sentence or under a stay of that sentence is convicted of a crime committed while imprisoned or under the stay.

3. John Pelletier, representing the Criminal Law Advisory Commission (CLAC) testified against the bill and submitted written testimony. Mr. Pelletier explained that CLAC members support giving discretion to the court to order a concurrent or nonconcurrent sentence and support giving the court authority to interrupt the first sentence to enable nonconcurrent sentence for the second crime where appropriate. Mr. Pelletier explained that most persons serving sentences are serving split sentences (with imprisonment followed by probation) and that the "tolling" language in section 1609 gives the court the authority to interrupt the first sentence.

Neither for nor against:

None