



REESTABLISHING PAROLE IN MAINE: IMPROVING COMMUNITY SAFETY THROUGH INCENTIVIZED REHABILITATION

Policy Brief – October 2021

Abstract

Addressing the absence of parole in Maine, this policy brief puts forth 5 Policy Recommendations designed to improve community safety through incentivizing rehabilitation. While certain policy alternatives exist, they each fall short of leading offenders to rehabilitate. Rehabilitation is central to lowering recidivism, and parole is a potential avenue to incentivize rehabilitation and make Maine's communities safer.

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Executive Summary

Prisoners in Maine, since parole was abolished [over four decades ago](#), do not have an opportunity to earn a second chance at reintegration into society through active rehabilitation. Today, by not affording rewards for rehabilitation, the criminal justice system disincentivizes personal transformation, which ultimately [risks](#) the perpetuation of harm through recidivism (returning to prison after release). As Kathryn M. Campbell says in her entry on “[Rehabilitation Theory](#)” in the Encyclopedia of Prisons & Correctional Facilities, “The term ‘rehabilitation’ itself simply means the process of helping a person to readapt to society or to restore someone to a former position or rank”. A prisoner’s rehabilitation largely [determines](#) his/her likelihood to cause further harm upon his/her return to society. Rehabilitation, in response, should be the focus of discourse and action toward addressing the need for parole in Maine.

Maine has four means of early release, each of which falls short of incentivizing rehabilitation:

1. Three [good-time codes](#) under which a convicted person may be sentenced, reducing his/her sentence by a set number of days each month;
2. A commutation clause in Maine [statute](#) that allows convicted persons to petition the Governor for early release once they have completed half of their sentence;
3. A probation system whereby individuals are supervised upon their release from prison; and
4. The Supervised Community Confinement Program (SCCP), which enables prisoners to serve up to their last [30 months](#) in a community setting.

To address this shortcoming in public policy, there currently exists a legislative bill to address the pressing need for incentivizing rehabilitation in the Criminal Justice System: Legislative Document 842 – “An Act to Reestablish Parole”. However, it is being hindered by what appears to be a lack of political will, as well as a lack of public understanding of what parole is and why it is needed in Maine. The recommendations in this policy brief aim to remedy both of these shortcomings.

This policy brief proposes a five-fold policy recommendation to provide incentive to spur prisoners toward actively engaging in their rehabilitation and thus increasing safety in the communities to which these prisoners return:

1. Revive and pass into law Legislative Document 842 – “An Act to Reestablish Parole in Maine” in its [original form](#);
2. Implement evidence-based parole [policies centered on risks and needs](#);
3. Adopt shorter supervision and [focus on goals and incentives](#) in implementing parole;
4. [Frontload](#) Supervision Resources; and
5. [Involve Offenders](#) in the Supervision Process.

By implementing these recommendations, Maine can take a step towards rectifying the decision to abolish parole, incentivize rehabilitation, and potentially improve community safety.

Context of the Problem

When Maine [abolished parole in 1976](#), prisoners lost their opportunity to earn a second chance at reintegration into society through active rehabilitation. Now, the natural-Life and de facto-Life sentences once handed down still remain, yet with no realistic avenue of reprieve. For example, of two Maine prisoners who committed a violent home invasion, one received “a sentence of 50 to 90 years, while the other...was given a life sentence – the first handed down under a 2001 statute creating a new felony of aggravated attempted murder” ([Rooks, 2021](#)). While the [commutation clause](#) allows the Governor of Maine to afford an incarcerated person opportunity to obtain early release through proving their rehabilitation, it has [never](#) been utilized in this way. By not affording rewards for rehabilitation, the criminal justice system disincentivizes personal transformation, which ultimately [risks](#) the perpetuation of harm through recidivism (returning to prison after release).

Legislative Actions

In the first sitting of Maine’s 130th Legislative Session, Representative Jeffrey Evangelos (I - Friendship) [submitted Legislative Document 842](#) – An Act to Reestablish Parole. As someone who believes in “the dignity of people..., in second chances..., in accountability..., [and] in redemption,” Rep. Evangelos purposed to address [the lack of hope](#) in Maine’s current carceral system.

After passing in the House of Representatives, the bill died in the Senate, only to be revived shortly thereafter in an amended form, as a “[Resolve, To Create the Commission To Examine Reestablishing Parole](#)”. The amended bill now sits on Governor Janet Mills’ desk, requiring her signature to pass, as the 130th Session is currently [out of session](#) until January 2022.

DISINCENTIVIZED REHABILITATION

- Parole was abolished in 1976
- Natural- and de facto-Life sentences remain
- No avenue of reprieve currently exists
- Commutation clause has never been used to release rehabilitated prisoner
- No incentive risks perpetuated harm through recidivism
- Parole bill died in the Senate
- Parole bill amended to create “Commission to Examine Reestablishing Parole”
- Amended bill requires Governor Mills’ signature to pass

Policy Alternatives

FOUR EXISTING APPROACHES

1. Good-time codes that are based upon sentencing date, as opposed to rehabilitative efforts, fall short of providing incentive, as the amount of “good time” that can be earned is determined by sentencing date, not rehabilitation.
2. Commutation clause gives Maine Governor power to release rehabilitated prisoners, but has never been utilized to reward rehabilitation.
3. Probation system supervises prisoners once released, regardless of level of rehabilitative efforts; included as part of carceral sentence.
4. Community confinement allows prisoners to serve final 30 months of their incarceration in community setting, yet this provides disproportionate reentry support to prisoners serving longer sentences.

Maine has four means of early release, each of which falls short of incentivizing rehabilitation.

1. *Good-time codes:* There are currently three [good-time codes](#) under which a convicted person may be sentenced. “[Good-time](#)” is the practice of reducing a convicted person’s sentence by a set number of days for good behavior, participation in rehabilitative programming, and acceptable work performance. However, with few [exceptions](#), the amount of good-time one may receive is [dictated](#) by the date of his/her sentencing. Furthermore, in practice, Rep. Evangelos rightly [states](#), “it doesn’t make a difference whether you [a prisoner] earn a college degree, or sit in your cell and annoy the guards...you end up serving the same [amount of] time”. Therefore, receiving ‘good-time’ does not truly act as an incentive to actively participate in rehabilitative efforts.

2. *Commutation clause:* A commutation clause exists in Maine [statute](#). This clause allows convicted persons to petition the Governor for early release once they have completed [half](#) of their sentence. There is even provision for a person to petition before the halfway mark, if they have [exceptional circumstances](#). However, as stated above, this clause has [never been invoked](#) to afford early release to a currently incarcerated person, regardless of his/her rehabilitative efforts. Therefore, rather than serving as an incentive, this clause acts as what Leo Hylton describes as, “a charade performed to show that a path for early release exists, but not one that actually releases the rehabilitated.” ([Hylton, 2020](#)).

3. *Probation system:* Maine has a probation system whereby individuals are supervised upon their release from prison. However, where its primary objective is to supervise and restrict behavior, The Council of State Governments’ Justice Center shows that probation tends to serve more as a [stumbling block](#) to reentry than a support system. Furthermore, prisoners do not earn probation but receive it as part of their carceral sentence.

4. **Community confinement:** The Supervised Community Confinement Program (SCCP) enables prisoners to serve up to their last [30 months](#) in a community setting. However, whether a person is serving 6 years or 60 years, the 30 months is a fixed number, thus providing disproportionate reentry support and falling short of incentivizing rehabilitation. While it may suffice for the former, representing approx. 42% of the total sentence, simple math shows that 30 months provides support for merely 4.2% of the latter sentence.

Policy Recommendations

This policy brief proposes a five-point policy recommendation to provide incentive to spur prisoners toward actively engaging in their rehabilitation and thus increasing safety in the communities to which these prisoners will return.

1. **Revive and pass into law Legislative Document 842.** Revive and pass into law LD 842 - “An Act to Reestablish Parole in Maine” in its [original form](#), rather than the [Amendment](#) that merely creates a Commission to examine the possibility of reestablishing parole. The original bill has an evidence-based foundation, which leaves room for flexibility to incorporate the following recommendations by The Pew Charitable Trusts and The Pew Center on the States:
2. **Implement evidence-based parole policies centered on risks and needs.** The decision-making process for granting parole is largely subjective without a foundation in evidence-based practices. It is imperative for a parole board to conduct assessments that are based on a prisoner’s [actual risk](#) of re-offense, as opposed to a parole board member’s opinion. According to The Pew Charitable Trusts, “Research shows that supervision and treatment should be prioritized for people assessed as having a higher risk for recidivism and a greater need for services, and that those assessed as low risk experience better outcomes without being subjected to intensive supervision, stringent rules, or unnecessary treatment.” ([Trusts, 2020](#));

5-POINT POLICY RECOMMENDATION

1. Revive and pass into law Legislative Document 842
2. Implement evidence-based parole policies centered on risks and needs
3. Adopt shorter supervision and focus on goals and incentives in implementing parole
4. Frontload Supervision Resources
5. Involve Offenders in the Supervision Process

3. ***Adopt shorter supervision and focus on goals and incentives in implementing parole.*** With a recidivism rate that [recently increased from 24.7% to 30.2%](#), the current lengths of community supervision are failing at deterring crime, revealing a potential need for shorter terms of supervision paired with support. Parole should be implemented in a way that provides offenders goals to reach that encourage positive behavior and can ultimately lead to early termination of supervision. According to The Pew Charitable Trusts, “Recent research has demonstrated that long supervision sentences do not deter crime and deliver diminishing benefits. In addition, practices that emphasize adherence to rules by people under supervision, rather than addressing their risks and needs, often lead to failure.” ([Trusts, 2020](#)).

4. ***Frontload Supervision Resources.*** Each offender’s need for resources is different. Some return home to waiting family and loved ones, while others are released from prison with no family ties or established support network. Furthermore, an offender’s need for resources will vary over the course of his/her reentry journey. As the Pew Center on the States asserts, “Research clearly identifies the period immediately following release from prison and jail as a particularly high-risk time for offenders. Not only is the risk of new crimes greatest during this period, but offenders often have a heightened need for substance abuse treatment, mental health, housing and other services as well.” ([States, 2008](#)). Therefore, reentry resources should be concentrated on that early post-release period.

5. ***Involve Offenders in the Supervision Process.*** Returning offenders need opportunity to develop agency in order to be active participants in society. Much of the current probation system consists of conditions imposed upon offenders by the court system; this does nothing to elicit buy-in from the offenders under supervision. Instead, as posited by the Pew Center on the States, “Supervision should evolve from a contact-driven system to a behavioral management model in which the individual being supervised is an active participant in the development of the case plan...As active participants in the process, they will feel an increased sense of accountability and motivation, resulting in better outcomes and greater public safety.” ([States, 2008](#))

Summary:

Reviewing the current absence of parole in Maine’s criminal justice system, Maine’s increasing recidivism rate, as well as Maine’s policies that fall short in providing incentivized rehabilitation opportunities, should lead State lawmakers to pursue a mechanism by which to improve community safety in Maine. The policy recommendations provided herein can serve as a guide to creating and implementing one such mechanism: an evidence-based, supportive, and inclusive parole system.

Recommended Source:

Maine Prisoner Advocacy Coalition (MPAC)

PO Box 446

Lisbon, ME 04250

<https://www.maineprisoneradvocacy.org/news/call-to-action-parole-in-maine>

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