

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 1913

H.P. 1382

House of Representatives, December 12, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Clerk of the House on December 12, 1989. Referred to the Committee on Judiciary and 1600 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PARADIS of Augusta.

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STATE OF MAINE

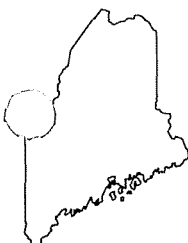
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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**An Act to Make Improvements in the Operation of the Judicial  
Department of the State.**

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

2  
4       Sec. 1. 4 MRSA §25, first ¶, as enacted by PL 1977, c. 705, §1,  
is amended to read:

6       The Judicial Department shall, each quarter, reimburse each  
7 county ~~for the salaries and expenses of bailiffs and other court~~  
8 ~~and jury officers~~ those reasonable costs related to salaries and  
9 expenses as agreed upon between the Judicial Department and the  
10 respective county that have been paid by that county during the  
11 previous quarter. The reimbursement shall be for the number of  
12 officers requested to serve the court either in that county or  
13 another by the Judicial Department, ~~provided that the Judicial~~  
14 ~~Department shall consult with the sheriff in each county as to~~  
15 ~~the level of security which is necessary.~~

16       Sec. 2. 4 MRSA §112, as repealed and replaced by PL 1977, c.  
18 114, §2, is amended to read:

20       **§112. Sheriff or deputy to attend court**

22       The sheriff of each of the counties, when requested, shall  
23 attend the Superior Court thereof or the Supreme Judicial Court  
24 when either court is in session in that county or he the sheriff  
25 shall specially designate a deputy, approved by the court, so to  
26 attend. When court is adjourned, actions brought shall be entered  
27 by the clerk and they, with all actions on the docket, shall be  
28 continued to the next court day.

30       Sec. 3. 4 MRSA §173, sub-§4, as amended by PL 1989, c. 89, is  
32 further amended to read:

34       **4. Distribution of fees and fines.** All law enforcement  
35 officers appearing for a scheduled trial in District Court at  
36 times other than their regular working hours, at the order of a  
37 prosecuting official and whether or not they are called upon to  
38 give testimony, shall be compensated out of the General Fund on  
39 an hourly basis equal to that established by the State for their  
40 range and step level.

42       The court officer required to be present at an arraignment may be  
43 an officer other than the arresting officer, provided that the  
44 municipality has designated the officer to handle the arraignment  
45 caseload of that municipality. In addition, one or more  
46 municipalities may designate either a municipal law enforcement  
47 officer or a county law enforcement officer to represent the  
48 municipalities at arraignments on a rotating schedule.

2 The court shall pay any municipality a flat fee of \$20 for each  
4 day or part thereof that a municipal law enforcement officer,  
6 designated by the municipality as its court officer, is required  
8 to be physically present in a District Court in order to  
10 adequately handle such municipality's caseload. In addition, the  
12 court shall pay any municipality a flat fee of \$20 per day for  
14 every day or part thereof, but no more than \$20 for any one day,  
16 such municipality loses the services of one or more law  
18 enforcement officers because the officer or officers are  
performing some act authorized or required by a District Court  
Rule of Criminal Procedure or is a witness in a criminal or  
traffic infraction case within the jurisdiction of the District  
Court. A municipality shall be deemed to have lost the services  
of a law enforcement officer when the officer, who normally  
performs duties of patrolling or maintaining order, is physically  
unable to perform those duties of patrolling and maintaining  
order for the municipality.

20 The sheriffs of the several counties shall designate and furnish  
22 deputy sheriffs to serve as bailiffs in each division of the  
24 District Court within their counties, if so requested by the  
26 Chief Judge. A deputy sheriff serving as a bailiff may not serve  
as a court officer for any law enforcement agency.

28 Compensation for such-service reasonable and necessary expenses,  
30 as agreed to by the parties, shall be paid by the District Court.

32 In those municipalities where a police officer has been furnished  
34 heretofore to serve as a bailiff, the Chief Judge may continue to  
authorize the use of a police officer as a bailiff and the  
municipality shall be compensated therefor by the District Court.  
A person now appointed to serve as bailiff may not serve as court  
officer for a municipal police department, as provided in this  
subsection.

36 **Sec. 4. 14 MRSA §5545, 2nd ¶,** as amended by PL 1981, c. 493,  
38 **§101, is further amended to read:**

40 Whenever, under this section or under any other section in  
42 this chapter, a court issues a writ of habeas corpus ordering  
44 before it a prisoner confined in any penal or correctional  
46 institution under the control of the Department of Mental Health  
48 and Mental Retardation or the Department of Corrections, or  
confined in any county jail, its order as to the transportation  
of the prisoner to and from the court shall be directed to the  
sheriff of the county in which the court is located. It shall be  
the responsibility of the sheriff or any one or more of his the  
sheriff's authorized deputies pursuant to any such order to  
safely transport a prisoner to and from the court and to provide  
50 safe and secure custody of the prisoner during the proceedings,  
52 as directed by the court. At the time of removal of a prisoner  
from an institution, the transporting officer shall leave with  
the head thereof of the institution an attested copy of the order

2 of the court, and upon return of the prisoner shall note sueh  
3 that return on sueh the copy. This paragraph as it relates to the  
4 responsibility for transportation shall be applicable to the  
5 transportation of prisoners transferred from the county jail to  
6 the State Prison under Title 15, section 453, and to transfers  
7 from the county jail to any other county jail under Title 34  
8 30-A, section ~~1046~~ 1656.

9  
10 **Sec. 5. 30-A MRSA §421, sub-§11**, as enacted by PL 1987, c.  
11 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6;  
12 c. 9, §2; and c. 104, Pt. C, §§8, 10, is repealed.

13  
14 **Sec. 6. 30-A MRSA §1504**, as amended by PL 1989, c. 6; c. 9,  
15 §2; c. 104, Pt. C, §§8, 10; and c. 146, is further amended to  
16 read:

17 **§1504. Jailer to return list of prisoners at each**  
18 **criminal session of court**

19  
20 Every jailer shall return a list of prisoners in custody to  
21 the Superior Court for a county on the first business day of  
22 every month, and afterwards a list of all committed during the  
23 session, certifying the cause for which and the person by whom  
24 committed, and shall have the calendar of prisoners in court for  
25 its inspection. The jailer shall also provide lists of prisoners  
26 in custody to the Superior Court or to a District Court upon  
27 receipt of a request for an additional or updated list. The  
28 jailer shall also provide for the transportation of prisoners to  
29 and from the District Court or Superior Court and ensure the safe  
30 custody of prisoners while they may be present during any court  
31 proceeding as directed by the court. If the jailer fails to do  
32 so, the court may impose a reasonable fine.

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38 **STATEMENT OF FACT**

39  
40 This bill amends several provisions that govern interactions  
41 between the courts and the county sheriffs.

42 The bill amends the law concerning reimbursement to counties  
43 for officers serving in the court. The bill clarifies that the  
44 sheriff must attend Superior Court or the Supreme Judicial Court  
45 if the court requests. Under this bill a deputy sheriff serving  
46 as a bailiff in District Court may not serve as a county officer  
47 and will be paid for reasonable and necessary expenses.

48  
49 The bill makes sheriffs responsible for providing safe and  
50 secure custody of prisoners in a habeas corpus proceeding.

2           The bill removes from the law the provision allowing a fee  
paid to sheriffs and deputies for attending court and keeping  
prisoners.

4

6           The bill requires jailers to provide transportation to and  
from, and safe custody during proceedings in, District Court and  
Superior Court.

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