

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 453

H. P. 335 House of Representatives, January 30, 1973
Referred to Committee on Judiciary. Sent up for concurrence and ordered
printed.

E. LOUISE LINCOLN, Clerk
Presented by Mr. Tyndale of Kennebunkport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Interstate Parole and Probation Hearing Procedures.

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

R. S., T. 34, c. 125, additional. Title 34 of the Revised Statutes is amended
by adding a new chapter 125 to read as follows:

CHAPTER 125

PRELIMINARY HEARING IN INTERSTATE PROBATION
AND PAROLE VIOLATION CASES

§ 1771. Preliminary hearing required, detention

Where supervision of a parolee or probationer is being administered pursuant to chapter 123, the appropriate judicial or administrative authorities in this State shall notify the compact administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole or probation violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this chapter within a reasonable time, unless such hearing is waived by the parolee or probationer. The appropriate officer or officers of this State shall as soon as practicable, following termination of any such hearing, report to the sending state, furnish a copy of the hearing record and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state. Pending any proceeding pursuant to this chapter, the appropriate officers of this State may take custody of and detain the parolee or probationer involved for a period not to exceed 15 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver

as may be necessary to arrange for the retaking or reincarceration.

§ 1772. Persons authorized to conduct preliminary hearing

Any hearing pursuant to this chapter may be before the compact administrator under chapter 123 or his authorized designee, except that no hearing officer shall be the person making the allegation of violation.

§ 1773. Procedure at preliminary hearing

With respect to any hearing pursuant to this chapter, the parolee or probationer:

1. Notice. Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that he has committed a violation that may lead to a revocation of parole or probation;

2. Advise. Shall be permitted to advise with any persons whose assistance he reasonably desires, prior to the hearing;

3. Confrontation. Shall have the right to confront and examine any persons who have made allegations against him, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons;

4. Contentions. May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions. A record of the proceedings shall be made and preserved.

§ 1774. Reciprocal provisions

In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact for the Supervision of Parolees and Probationers, any appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to this chapter, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter.

STATEMENT OF FACT

This Act is necessary in order to assure compliance with **Morrissey, et al. vs. Brewer**, 92 S. Ct. 2593 (1972), in interstate cases. This decision mandates the holding of preliminary hearings in parole revocation cases.