

# MAINE STATE LEGISLATURE

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New Draft of: S. P. 766, L. D. 2197  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 2594**

S. P. 946

In Senate, March 19, 1974

Reported by Senator Tanous of Penobscot from the Committee on Judiciary  
and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FOUR

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**AN ACT to Establish Guidelines for Release of Accused Persons Pending  
Trial.**

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

R. S., T. 15, § 942, additional. Title 15 of the Revised Statutes is amended  
by adding a new section 942 to read as follows:

§ 942. Release on personal recognizance or bond

1. Factors in the release decision. Any person charged with an offense,  
other than an offense punishable by life imprisonment, shall at his appearance  
before a judge of the district court, or bail commissioner, be ordered released  
pending trial on his personal recognizance or on execution of an unsecured  
bond which shall be in writing signed by said person on forms approved by  
the Chief Judge of the District Court, unless said judge or bail commissioner  
determines in the exercise of his discretion that such release will not reason-  
ably assure the appearance of the person as required. In his determination,  
said judge or bail commissioner shall, on the basis of any reliable information  
which can be obtained, take into account the following factors:

- A. The nature and circumstances of the offense charged;
- B. The accused's family ties in the State of Maine;
- C. The accused's length of residence in the community;
- D. Employment of the accused in the State of Maine;

- E. Any previous flight by the accused to avoid arrest or prosecution for this or any prior alleged offense;
- F. Any previous unexcused failure to appear as required to answer prior criminal charges;
- G. The accused's financial ability to give bail;
- H. The accused's record of convictions.

The judge or bail commissioner shall inform the accused of the penalties provided by subsection 4 if he should fail without just cause to appear before any court or judicial officer as required.

2. Conditions on release. If the judge or bail commissioner determines that release on personal recognizance or on execution of an unsecured bond will not reasonably assure the appearance of the person, the judge or bail commissioner shall impose the first of the following conditions of release which will reasonably assure the appearance of the person, or, if no single condition gives that assurance, any combination of the following conditions:

- A. Place the person in the custody of any designated person or organization agreeing to supervise the person, including a public official, public agency or publicly-funded organization;
- B. Place restrictions on the travel, association or place of abode of the person during the period of release;
- C. Require the person to recognize without surety in a reasonable sum and to deposit with the clerk of the court an amount in cash not to exceed 10% of the amount of the recognizance; and
- D. Impose any other condition, not requiring surety, including a condition that the person return to custody after specified hours.

3. Review. Any person aggrieved by the refusal of said judge or bail commissioner to authorize his release on personal recognizance or on the execution of an unsecured appearance bond may petition the Superior Court for a review of such decision. The judge or bail commissioner making such decision shall advise such person of his right to obtain an immediate review of such decision in the Superior Court. If such person chooses to have a review, he shall be furnished a petition for review in a form prescribed by the Chief Judge of the District Court and upon execution of said petition and without the issuance of any writ or other process, the sheriff of the county in which the decision was made shall provide for the transportation of the petitioner forthwith, together with the petition for review and all papers relevant thereto, or copies thereof, to the Superior Court for the county if a justice is then sitting, or to the nearest county in which a justice of the Superior Court is then sitting. In the event that no justice of the Superior Court is then sitting, the petitioner shall be retained in custody until the next business day and upon the morning of such day, without the issuance of any writ or other process, the petitioner's custodian shall provide for his transportation to the Superior Court, as hereinbefore required.

The petition and such papers shall be delivered to the clerk of the Superior Court to which the petitioner is transported and upon their receipt such clerk shall give notice to the county attorney for the county in which the decision was made. Said petition shall have priority over any other matter before said justice and he shall, if he finds in his discretion that the petitioner may be released on his personal recognizance or on execution of an unsecured bond, order such release, or he may make any order of bail he deems appropriate, revising the amount of the recognizance or the number of sureties thereon, or both.

Following a determination of the conditions of release by a judge of the District Court, or review by a justice of the Superior Court, the amount of any recognizance shall not be increased, nor shall any additional surety be required, unless the person making such recognizance shall default thereon or unless the court in its discretion determines that changed circumstances or other factors not previously considered by the court make the present recognizance insufficient to reasonably assure the presence of the defendant, provided that any revision which increases the amount of the recognizance or which requires an additional surety shall be made by an order supplementing rather than replacing any recognizance given pursuant to such initial decision.

Any person aggrieved by a failure to comply with any of the requirements of this section may petition the court as provided in Title 14, section 5501.

4. Failure to appear; penalty. Any person charged with an offense who has been ordered released by a pending trial on his personal recognizance, or on execution of an unsecured or secured appearance bond, who fails without just cause to appear before any court or judicial officer as required, shall be punished by a fine of not more than the maximum provided for the offense charged, or by imprisonment for not more than 6 months if the offense charged was a misdemeanor, or for not more than 5 years if the offense charged was a felony, or by both.