

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1486

H. P. 1271

House of Representatives, March 26, 1981

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Hayden of Durham.

Cosponsor: Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Relating to Bail Commissioners.

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

Sec. 1. 15 MRSA § 942, sub-§ 1, first ¶, as enacted by PL 1973, c. 760, is amended to read:

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 the person on forms approved by the Chief Judge of the District Court, unless said the judge or bail commissioner determines in the exercise of his discretion that such the release will not reasonably assure the appearance of the person as required. **The official having custody of the accused shall promptly notify a judge or bail commissioner. In his determination, said** The judge or bail commissioner shall interview the accused prior to making his determination as to release on personal recognizance or bond. **In making that determination, he shall, on the basis of any an interview with the accused and other** reliable information which can be obtained, take into account the following factors:

Sec. 2. 15 MRSA § 942, sub-§ 1, ¶J, as enacted by PL 1975, c. 143, § 1, is amended by adding at the end a new sentence to read:

If the accused is not released on his personal recognizance or on execution of an unsecured bond, the judge or bail commissioner must state in writing why release on personal recognizance is not appropriate.

Sec. 3. 15 MRSA § 942, sub-§ 1, last ¶, as enacted by PL 1973, c. 760, is amended by adding at the end a new sentence to read:

If the accused does not want to be released on bail, the accused shall sign a waiver to that effect.

1-A. Indigent accused person.

Sec. 4. 15 MRSA § 942, sub-§ 1-A is enacted to read:

A. If it appears on the judge or the bail commissioner that the accused does not have sufficient means to pay the bail commissioner, the accused shall prepare a sworn affidavit to that effect. This affidavit shall be filed with the clerk of the District Court.

B. No person may be denied release on personal recognizance or on an unsecured or secured appearance bond on the basis of his inability to pay the bail commissioner's fee. The bail commissioner's fee for an indigent who has prepared a sworn statement of his inability to pay that fee shall be paid by the District Court. If it is determined by the District Court that the accused has sufficient means to pay that fee, he shall be required to reimburse the District Court for that amount.

STATEMENT OF FACT

This bill requires the detaining officials to notify a bail commissioner or judge whenever anyone is arrested for a bailable offense. It requires a bail commissioner or judge to meet personally with the accused prior to making his determination regarding release of the accused. It also requires them to interview the accused. It also requires them to interview the accused, regarding the relevant factors which the judge or bail commissioner must consider in making his decision.

This bill establishes a sworn statement of indigency and requires the State to pay the bail commissioner's fees of an indigent.