

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TENTH LEGISLATURE  
4

5 **Legislative Document**

**No. 2056**

6  
7 H. P. 2155 House of Representatives, March 8, 1982  
Approved for introduction by the Legislative Council pursuant to  
Joint Rule 26.

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

EDWIN H. PERT, Clerk  
Presented by Representative J. Diamond of Bangor.

9  
10 STATE OF MAINE  
11

12 IN THE YEAR OF OUR LORD  
13 NINETEEN HUNDRED AND EIGHTY-TWO  
14

15 AN ACT Clarifying the Laws Governing  
16 Bail in Certain Capital Cases.  
17

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

19 **Sec. 1. 15 MRSA §101, sub-§2, first sentence, as**  
20 **amended by PL 1981, c. 493, is further amended to read:**

21 Except in the case of a defendant who is charged with the  
22 ~~commission of an offense, the only punishment for which is~~  
23 ~~life imprisonment, crimes of murder, as defined by Title~~  
24 17-A, section 201, Class A rape or Class A kidnapping, order  
25 the defendant's release on bail, with or without the further  
26 order that the defendant undergo observation at a state  
27 mental hospital or mental health facility approved by the  
28 Department of Mental Health and Mental Retardation, or by  
29 arrangement with a private psychiatrist and treatment when  
30 it is deemed appropriate by the head of the hospital or  
31 clinic or by the private psychiatrist.

1       Sec. 2. 15 MRSA §855, as amended by PL 1965, c. 356,  
2 §36, is further amended to read:

3     §855. Bail after commitment

4       Any Justice of the Supreme Judicial or Superior Court,  
5 or bail commissioner within his county, on application of a  
6 prisoner committed before verdict of guilty for a bailable  
7 any offense may inquire into the case and admit him to bail,  
8 except that, when the crime charged is murder, as defined by  
9 Title 17-A, section 201, Class A rape or Class A kidnapping  
10 and the proof of that crime is evident or the presumption is  
11 great, in which case the accused shall not have the right to  
12 bail.

13       The finding that the proof is evident or the presump-  
14 tion is great shall be made by a justice only after a hear-  
15 ing at which the accused is entitled to be present with  
16 counsel, illegally obtained evidence shall be excluded, and  
17 of which a verbatim record shall be made. Bail shall not be  
18 denied if the evidence presented by the State is insuffi-  
19 cient to sustain a conviction of the offense. The burden of  
20 proof shall lie with the State.

21       Sec. 3. 15 MRSA §942, sub-§1, first sentence, as  
22 enacted by PL 1973, c. 760, is amended to read:

23 Any person charged with an offense, ~~other than an offense~~  
24 ~~punishable by life imprisonment,~~ shall, at his appearance  
25 before a judge Judge of the ~~district court~~ District Court <sup>7</sup>  
26 or bail commissioner, be ordered released pending trial on  
27 his personal recognizance or on execution of an unsecured  
28 bond which shall be in writing signed by ~~said~~ that person on  
29 forms approved by the Chief Judge of the District Court,  
30 unless ~~said~~ that judge or bail commissioner determines in  
31 the exercise of his discretion that such release will not  
32 reasonably assure the appearance of the person as required;  
33 provided that, when the crime charged is murder, as defined  
34 by Title 17-A, section 201, Class A rape or Class A kid-  
35 napping, the accused does not have the right to bail if the  
36 Judge of the District Court finds that the proof is evident  
37 or the presumption is great pursuant to the procedure set  
38 forth in section 855.

39   STATEMENT OF FACT

40       This bill allows a judge to deny bail for Class A rape  
41 and Class A kidnapping, as well as murder, in cases where

1 the "proof is evident or the presumption of guilt great."  
2 It also establishes the generally accepted standards for de-  
3 fining when the "proof is evident and the presumption  
4 great."

5

4828030282