

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TENTH LEGISLATURE
4

5 **Legislative Document**

No. 2060

6
7 H. P. 2160 House of Representatives, March 9, 1982
Approved for introduction by the Legislative Council pursuant to
Joint Rule 26.

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

8 EDWIN H. PERT, Clerk

Presented by Representative Tarbell of Bangor.

Cosponsors: Representative Murphy of Kennebunk and Represent-
ative Crowley of Stockton Springs.

9
10 STATE OF MAINE
11

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

15 AN ACT to Revise the Laws Pertaining to
16 Bail in Criminal Cases.
17

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

19 Sec. 1. 14 MRSA §5524, first sentence is amended to
20 read:

21 If Except as otherwise provided in Title 15, section
22 943, if the party is imprisoned and detained for aailable
23 offense, he shall be admitted to bail if sufficient bail is
24 offered.

25 Sec. 2. 14 MRSA §5540 is amended to read:

26 §5540 Bail; exceptions

27 Nothing in this chapter shall ~~shall~~ may restrain the Supreme
28 Judicial Court or the Superior Court in term time, or any
29 justice thereof in vacation, from bailing a person for any
30 offense when the circumstances of the case require it;
31 except persons committed by the Governor and Council, Senate

1 or House of Representatives for causes mentioned in the Con-
2 stitution, and except as otherwise provided in Title 15,
3 section 943.

4 **Sec. 3. 14 MRSA §5542, first sentence, as amended by**
5 **PL 1965, c. 356, §15, is further amended to read:**

6 When Subject to the limitations contained in Title 15,
7 section 943, when a person is confined in a jail for a bail-
8 able offense or for not finding sureties, except when a
9 verdict of guilty has been rendered against him for an
10 offense punishable in the State Prison and except when such
11 person is committed pending decision on report, any such
12 commissioner, on application, may inquire into the case and
13 admit him to bail and exercise the same power as any Justice
14 of the Supreme Judicial Court or Superior Court can; and may
15 issue a writ of habeas corpus and cause such person to be
16 brought before him for this purpose, and may admit him to
17 bail.

18 **Sec. 4. 14 MRSA §5544, first paragraph is amended to**
19 **read:**

20 Any Subject to the limitations contained in Title 15,
21 section 943, any person under arrest for aailable criminal
22 offense may, before commitment to jail if he so requests, be
23 taken by the officer having him in charge before a bail com-
24 missioner, who may inquire into the case and admit him to
25 bail. Any Subject to the limitations contained in Title 15,
26 section 943, any person arrested on the Lord's Day, or on
27 the afternoon or evening preceding, for aailable criminal
28 offense, may be admitted to bail on that day by such commis-
29 sioner.

30 **Sec. 5. 15 MRSA §943 is enacted to read:**

31 §943. Detention of persons accused of certain crimes.

32 1. Person whose release will unreasonably endanger
33 another person or the community. Any person charged with a
34 Class A, B or C crime may be admitted to bail, unless a
35 judge determines that the release will unreasonably endanger
36 the safety of any other person or the community. The deter-
37 mination by the judge shall be made only after a hearing at
38 which the accused is entitled to be present with counsel and
39 of which a verbatim record shall be made. If the judge
40 determines that the release of the accused will unreasonably
41 endanger the safety of any other person or the community, he
42 shall, either in lieu of or in addition to the conditions
43 set pursuant to section 942, impose the least restrictive

1 condition, or combination of conditions, of release set
2 forth in subsection 2 that will reasonably assure the safety
3 of any other person or the community. No financial condi-
4 tion may be imposed to assure the safety of any person or
5 the community.

6 2. Factors in determining detention or release. In
7 determining whether the person should be detained or which
8 conditions of release will reasonably assure the safety of
9 any other person or the community, the judge shall, on the
10 basis of available information, take into account:

11 A. The nature and circumstances of the offense
12 charged;

13 B. The weight of the evidence against the person for
14 the crime of which he is charged; and

15 C. The history and characteristics of the person,
16 including, but not limited to: His character, mental
17 condition, family ties, employment, past conduct,
18 length of residence in the community, record of convic-
19 tions and record of appearances; illegal drug use;
20 whether he was on probation, parole or other release
21 pending completion of sentence for a conviction under
22 federal, state or local law at the time of the current
23 arrest; and whether he was on pretrial release or
24 release pending sentence or appeal for an offense under
25 federal, state or local law at the time of the current
26 arrest.

27 3. Conditions of release. The judge may provide as an
28 explicit release condition for any person ordered released
29 under this section that the person:

30 A. Remain in the custody of a designated person who
31 agrees to supervise him, if the designated person is
32 reasonably able to assure the judge that the person
33 will not pose a danger to the safety of another person
34 or the community;

35 B. Abide by specified restrictions on his travel,
36 associations or place of abode;

37 C. Work conscientiously at his employment, or if unem-
38 ployed, actively seek employment;

39 D. Refrain from excessive use of alcohol and any use
40 of a narcotic drug or other controlled substance with-
41 out a prescription by a licensed medical practitioner;

1 E. Avoid all contact with potential witnesses who may
2 testify concerning the offense;

3 F. Refrain from possessing a firearm, destructive
4 device or other dangerous weapon;

5 G. Undergo available medical or psychiatric treatment,
6 including treatment for drug or alcohol dependency and
7 remain in a specified institution if required for that
8 purpose; or

9 H. Satisfy any other condition reasonably necessary to
10 assure the safety of any other person or the community
11 pursuant to this section, including a condition requir-
12 ing that the person return to official detention after
13 specified hours or during specified periods and abide
14 by such other severe restrictions on the person's free-
15 dom, associations or activities that the judge deems
16 appropriate.

17 4. Detention of certain persons. The judge shall order
18 that person detained in custody, if, after hearing, he finds
19 that:

20 A. On the basis of evidence presented, there is a
21 probability that the person committed the crime for
22 which he has been charged; and

23 B. That the evidence indicates a substantial likeli-
24 hood that the person poses a danger to any other person
25 or to the community, and that no condition or combina-
26 tion of conditions of release will reasonably assure
27 the safety of any other person or the community.

28 5. Persons detained to be brought to trial expedi-
29 tiously. Any person detained under this section shall be
30 brought to trial expeditiously.

31 6. Order. A judge authorizing the release or detention
32 of a person pursuant to this section shall issue an order
33 containing, in writing, a statement of findings of fact, the
34 reasons for detention if imposed and any conditions of
35 release imposed, and shall advise him of the penalty appli-
36 cable to a violation of a condition of his release.

37 STATEMENT OF FACT

38 The purpose of this bill is to make changes in the bail
39 laws so that a person charged with a Class A, B or C crime
40 may be detained and not released on bail if a judge finds,

1 after a hearing, that the person poses a danger to any other
2 person or to the community.

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