

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 381

6
7 H.P. 322

House of Representatives, February 1, 1983

8 On Motion of Representative Hobbins of Saco referred to the Committee
9 on Judiciary. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Crowley of Stockton Springs.

Cosponsors: Representative Murphy of Kennebunk and Senator Perkins
of Hancock.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Revise the Laws Pertaining to
18 Bail in Criminal Cases.
19

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

22 Sec. 1. 14 MRSA §5524, as amended by PL 1981, c.
23 456, Pt. A, §54, is further amended to read:

24 §5524. Detention for bailable offense; admission to
25 bail

26 ¶ Except as otherwise provided in Title 15,
27 section 943, if the party is imprisoned and detained
28 for a bailable offense, he shall be admitted to bail
29 if sufficient bail is offered. If not, he shall be
30 remanded, with an order of the court or justice
31 expressing the sum in which he shall be held to bail
32 and the court at which he shall be bound to appear.
33 A notary public may, at any time before the sitting

1 of the court, bail the party pursuant to the order.

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

3 §5540 Bail; exceptions

4 Nothing in this chapter shall may restrain the
5 Supreme Judicial Court or the Superior Court in term
6 time, or any justice thereof in vacation, from
7 bailing a person for any offense when the circum-
8 stances of the case require it; except persons com-
9 mitted by the Governor and Council, Senate or House
10 of Representatives for causes mentioned in the Con-
11 stitution, and except as otherwise provided in Title
12 15, section 943.

13 Sec. 3. 14 MRSA §5542, first ¶, as amended by PL
14 1965, c. 356, §15, is further amended to read:

15 When Subject to the limitations contained in
16 Title 15, section 943, when a person is confined in a
17 jail for a bailable offense or for not finding sure-
18 ties, except when a verdict of guilty has been
19 rendered against him for an offense punishable in the
20 State Prison and except when such that person is com-
21 mitted pending decision on report, any such commis-
22 sioner, on application, may inquire into the case and
23 admit him to bail and exercise the same power as any
24 Justice of the Supreme Judicial Court or Superior
25 Court can; and may issue a writ of habeas corpus and
26 cause such that person to be brought before him for
27 this purpose, and may admit him to bail. During a
28 term of the Superior Court, a bail commissioner is
29 not authorized to admit to bail any person confined
30 in jail or held under arrest by virtue of a precept
31 returnable to said that term. When a person is con-
32 finned in jail for a bailable offense or for not find-
33 ing sureties and the amount of his bail has been
34 fixed by a Justice of the Supreme Judicial Court or
35 of the Superior Court or by a Judge of the District
36 Court, a bail commissioner is not authorized to
37 change the amount of such that bail.

38 Sec. 4. 14 MRSA §5544, first ¶ is amended to
39 read:

1 Any Subject to the limitations contained in Title
2 15, section 943, any person under arrest for a baila-
3 ble criminal offense may, before commitment to jail
4 if he so requests, be taken by the officer having him
5 in charge before a bail commissioner, who may inquire
6 into the case and admit him to bail. Any Subject to
7 the limitations contained in Title 15, section 943,
8 any person arrested on the Lord's Day, or on the
9 afternoon or evening preceding, for aailable crimi-
10 nal offense, may be admitted to bail on that day by
11 such that commissioner.

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

13 §943. Detention of persons accused of certain
14 crimes.

15 1. Person whose release will unreasonably endan-
16 ger another person or the community. Any person
17 charged with a Class A, B or C crime may be admitted
18 to bail, unless a judge determines that the release
19 will unreasonably endanger the safety of any other
20 person or the community. The determination by the
21 judge shall be made only after a hearing at which the
22 accused is entitled to be present with counsel and of
23 which a verbatim record shall be made. If the judge
24 determines that the release of the accused will
25 unreasonably endanger the safety of any other person
26 or the community, he shall, either in lieu of or in
27 addition to the conditions set pursuant to section
28 942, impose the least restrictive condition, or com-
29 bination of conditions, of release set forth in sub-
30 section 2 that will reasonably assure the safety of
31 any other person or the community. No financial con-
32 dition may be imposed to assure the safety of any
33 person or the community.

34 2. Factors in determining detention or
35 release. In determining whether the person should be
36 detained or which conditions of release will reason-
37 ably assure the safety of any other person or the
38 community, the judge shall, on the basis of available
39 information, take into account:

40 A. The nature and circumstances of the offense
41 charged;

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

3 C. The history and characteristics of the
4 person, including, but not limited to: His char-
5 acter; mental condition; family ties; employment;
6 past conduct; length of residence in the commu-
7 nity; record of convictions and record of appear-
8 ances; illegal drug use; whether he was on proba-
9 tion, parole or other release pending completion
10 of sentence for a conviction under federal, state
11 or local law at the time of the current arrest;
12 and whether he was on pretrial release or release
13 pending sentence or appeal for an offense under
14 federal, state or local law at the time of the
15 current arrest.

16 3. Conditions of release. The judge may provide,
17 as an explicit release condition for any person
18 ordered released under this section, that the person:

19 A. Remain in the custody of a designated person
20 who agrees to supervise him, if the designated
21 person is reasonably able to assure the judge
22 that the person will not pose a danger to the
23 safety of another person or the community;

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

26 C. Work conscientiously at his employment or, if
27 unemployed, actively seek employment;

28 D. Refrain from excessive use of alcohol and any
29 use of a narcotic drug or other controlled sub-
30 stance without a prescription by a licensed medi-
31 cal practitioner;

32 E. Avoid all contact with potential witnesses
33 who may testify concerning the offense;

34 F. Refrain from possessing a firearm, destruc-
35 tive device or other dangerous weapon;

36 G. Undergo available medical or psychiatric
37 treatment, including treatment for drug or alco-
38 hol dependency, and remain in a specified insti-
39 tution if required for that purpose; or

1 H. Satisfy any other condition reasonably neces-
2 sary to assure the safety of any other person or
3 the community pursuant to this section, including
4 a condition requiring that the person return to
5 official detention after specified hours or
6 during specified periods and abide by such other
7 severe restrictions on the person's freedom,
8 associations or activities that the judge deems
9 appropriate.

10 4. Detention of certain persons. The judge shall
11 order that a person be detained in custody, if, after
12 hearing, he finds that:

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

16 B. The evidence indicates a substantial likeli-
17 hood that the person poses a danger to any other
18 person or to the community, and that no condition
19 or combination of conditions of release will
20 reasonably assure the safety of any other person
21 or the community.

22 5. Persons detained to be brought to trial
23 expeditiously. Any person detained under this
24 section shall be brought to trial expeditiously.

25 6. Order. A judge authorizing the release or
26 detention of a person pursuant to this section shall
27 issue an order containing, in writing, a statement of
28 findings of fact, the reasons for detention if
29 imposed and any conditions of release imposed, and
30 shall advise that person of the penalty applicable to
31 a violation of a condition of his release.

32 STATEMENT OF FACT

33 The purpose of this bill is to make changes in
34 the bail laws so that a person charged with a Class
35 A, B or C crime may be detained and not released on

1 bail if a judge finds, after a hearing, that the
2 person poses a danger to any other person or to the
3 community.

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