

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1919
6

7 H.P. 1467

House of Representatives, January 10, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint
9 Rule 26.

10 Reference to the Committee on Judiciary is suggested and ordered
11 printed.

EDWIN H. PERT, Clerk

Presented by Representative Crowley of Stockton Springs

12 Cosponsors: Senator Carpenter of Aroostook, Representative Allen of
13 Washington and Representative Murphy of Kennebunk.

14 STATE OF MAINE
15
16

17 IN THE YEAR OF OUR LORD
18 NINETEEN HUNDRED AND EIGHTY-FOUR
19

20 AN ACT to Revise the Laws Pertaining to
21 Bail in Criminal Cases.
22

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

25 Sec. 1. 14 MRSA §5524, as amended by PL 1981, c.
26 456, Pt. A, §54, is further amended to read:

27 §5524. Detention for bailable offense; admission to
28 bail

29 ¶ Except as otherwise provided in Title 15, sec-
30 tion 943, if the party is imprisoned and detained for
31 a bailable offense, he shall be admitted to bail if
32 sufficient bail is offered. If not, he shall be re-
33 manded, with an order of the court or justice ex-
34 pressing the sum in which he shall be held to bail
and the court at which he shall be bound to appear.
A notary public may, at any time before the sitting
of the court, bail the party pursuant to the order.

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

2 §5540 Bail; exceptions

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

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

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

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

39 Any Subject to the limitations contained in Title
40 15, section 943, any person under arrest for a baila-
41 ble criminal offense may, before commitment to jail

1 if he so requests, be taken by the officer having him
2 in charge before a bail commissioner, who may inquire
3 into the case and admit him to bail. Any Subject to
4 the limitations contained in Title 15, section 943,
5 any person arrested on the Lord's Day, or on the af-
6 ternoon or evening preceding, for a bailable criminal
7 offense, may be admitted to bail on that day by such
8 that commissioner.

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

10 §943. Detention of persons accused of certain crimes

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

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

36 A. The nature and circumstances of the offense
37 charged;

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

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

14 3. Conditions of release. The judge may provide,
15 as an explicit release condition for any person or-
16 dered released under this section, that the person:

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

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

24 C. Work conscientiously at his employment or, if
25 unemployed, actively seek employment;

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

30 E. Avoid all contact with potential witnesses
31 who may testify concerning the offense;

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

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

1 bail if a judge finds, after a hearing, that the per-
2 son poses a danger to any other person or to the com-
3 munity.

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