

# 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  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

(New Draft of H.P. 1655, L.D. 2185)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2439

H.P. 1844

House of Representatives, April 6, 1984

Reported by the Majority from the Committee on Judiciary and printed under Joint Rule 2.

Original bill presented by Representative Brannigan of Portland. Cosponsored by Representative Benoit of So. Portland, Senator Brown of Washington and Representative Livesay of Brunswick.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Amend the Laws Regarding Bail.

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

Sec. 1. 15 MRSA §§813 and 814 are enacted to read:

§813. State's attorney present at proceedings

An attorney for the State shall be present at all proceedings pursuant to Maine District Court Criminal Rule 5 and Maine Rule of Criminal Procedure Rule 5 in the District Court with respect to all persons presented on a charging instrument alleging violations of crimes which constitute murder or a Class A, Class B or Class C crime.

§814. Opportunity for State to present relevant evidence

1           A Judge of the District Court or Justice of the  
2 Supreme Judicial or Superior Courts or bail commis-  
3 sioner, before making a determination as to whether  
4 or not to admit a person accused of murder or a Class  
5 A, Class B or Class C crime to bail, shall afford the  
6 attorney for the State or a law enforcement officer  
7 familiar with the charges to present any evidence  
8 relevant to bail considerations.

9           Sec. 2. 15 MRSA §851, as amended by PL 1965, c.  
10 356, §33, is further amended by adding at the end a  
11 new paragraph to read:

12           Any person who offers real estate as surety for  
13 the appearance before a court of a person accused of  
14 murder or a Class A, Class B or Class C crime shall  
15 be required to file a bail lien with the register of  
16 deeds in the county where the real estate lies. If  
17 the accused is to be bailed prior to his appearance  
18 in a court for the first time, the person offering  
19 that real estate shall file a copy of the lien at-  
20 tested by the register of deeds, stating the book and  
21 page number at which the lien is recorded, on the  
22 next business day after which the real estate is so  
23 offered. If the accused is bailed after having ap-  
24 peared in court for the first time, the suspect shall  
25 not be released from custody until the person so of-  
26 fering his real estate has filed with the court, with  
27 whom the bail is posted, a copy of the lien attested  
28 by the register of deeds, stating the book and page  
29 number at which the lien is recorded. If a suspect  
30 is released from custody prior to his first appear-  
31 ance in court upon a person offering real estate as  
32 surety and that person fails to file a duly attested  
33 copy of the lien required by this section within the  
34 prescribed time limits, the suspect may be taken into  
35 custody without the issuance of further process and  
36 shall be held as though the surety had not offered  
37 his real estate as surety. The person filing the  
38 lien is responsible for a fee to be paid to the reg-  
39 ister of deeds for receiving, recording and indexing  
40 the bail lien and for discharge of the bail lien as  
41 provided in Title 33, chapter 11, subchapter IV.

42           Sec. 3. 15 MRSA §942, sub-§1-A, as enacted by PL  
43 1983, c. 429, §2, is amended to read:

1        1-A. Denial of release on personal recognizance  
2        or unsecured bond; statement required. If the ac-  
3        cused is not released on his personal recognizance or  
4        on execution of an unsecured bond, the justice, judge  
5        or bail commissioner admitting the accused to bail,  
6        shall state in writing why release on personal recog-  
7        nizance is not appropriate. If a person accused of a  
8        Class A, Class B or Class C crime is released on his  
9        personal recognizance or on execution of an unsecured  
10       bond, the justice, judge or bail commissioner shall  
11       state on the record or in writing why release on per-  
12       sonal recognizance or unsecured bond was appropriate.

13        Sec. 4. 15 MRSA §942, sub-§5 is enacted to read:

14        5. Violation of a condition of release. Any  
15        person charged with an offense who has been ordered  
16        released pending trial who violates a condition of  
17        release is guilty of a Class E crime.

18        Sec. 5. 17-A MRSA §15, sub-§1, ¶A, as amended by  
19        PL 1983, c. 450, §1, is further amended to read:

20        A. Any person who he has probable cause to be-  
21        lieve has committed or is committing:

- 22                    (1) Murder;
- 23                    (2) Any Class A, Class B or Class C crime;
- 24                    (3) Assault while hunting;
- 25                    (4) Any offense defined in chapter 45;
- 26                    (5) Assault, if the officer reasonably be-  
27                    lieves that the person may cause injury to  
28                    others unless immediately arrested;
- 29                    (5-A) Assault, criminal threatening,  
30                    terrorizing or reckless conduct, if the of-  
31                    ficer reasonably believes that the person  
32                    and the victim are family or household mem-  
33                    bers, as defined in Title 15, section 301;
- 34                    (6) Theft as defined in section 357, when  
35                    the value of the services is \$1,000 or less,  
36                    if the officer reasonably believes that the

1 person will not be apprehended unless imme-  
2 diately arrested;

3 (7) Forgery, if the officer reasonably be-  
4 lieves that the person will not be appre-  
5 hended unless immediately arrested; ~~or~~

6 (8) Negotiating a worthless instrument, if  
7 the officer reasonably believes that the  
8 person will not be apprehended unless imme-  
9 diately arrested; ~~and~~ or

10 (9) Violation of a condition of release in  
11 violation of Title 15, section 942, subsec-  
12 tion 5; and

13 Sec. 6. 33 MRSA §751, sub-§14-A is enacted to  
14 read:

15 14-A. Bail liens. Receiving, recording and in-  
16 dexing any bail lien or discharge thereof, the sum of  
17 \$5 each; and

18 Sec. 7. Study. In order to ensure the availa-  
19 bility of accurate and complete criminal history  
20 record information to allow criminal justice offi-  
21 cials to make informed decisions, the Department of  
22 Public Safety is directed to study the systems, meth-  
23 ods and purposes for reporting and disseminating  
24 criminal history record information. The department  
25 shall submit a report, together with any suggested  
26 legislation, to the Legislature by November 1, 1984.  
27 The report shall determine the needs of the State in  
28 regard to receiving and disseminating criminal histo-  
29 ry record information, assess the current delivery  
30 system for criminal history records and make recom-  
31 mendations concerning the establishment and implemen-  
32 tation of a criminal history record information sys-  
33 tem which will adequately meet the needs of the State  
34 to provide accurate and complete criminal history  
35 record information in a timely and efficient manner.  
36 The department shall specifically evaluate the desir-  
37 ability of establishing a computer-based information  
38 system for law enforcement agencies throughout the  
39 State. The department shall consult with the various  
40 state agencies involved in collecting, disseminating  
41 and receiving criminal history record information,

1 including, but not limited to, local and state law  
2 enforcement agencies, sheriffs' offices, state  
3 prosecutorial agencies and the court system.

4 STATEMENT OF FACT

5 The new draft provides for the following:

6 Section 1 requires an attorney for the State to  
7 be present at all arraignments and initial appear-  
8 ances for murder or Class A, Class B or Class C  
9 crimes. The new draft clarifies the language.

10 Section 1 also provides for an opportunity for an  
11 attorney for the State or a law enforcement officer  
12 familiar with the charges to present any evidence  
13 relevant to bail considerations at the time bail is  
14 set.

15 The new draft deletes the requirement that a  
16 criminal history record be received prior to setting  
17 bails and defers that issue to the study in section 7  
18 dealing with the establishment of a system to get ac-  
19 curate criminal history record information to bail  
20 proceedings.

21 Section 2 originally required that when real es-  
22 tate is used as a surety for bail in cases involving  
23 murder or a Class A, Class B or Class C crime, it  
24 shall be recorded with the register of deeds as a  
25 bail lien. The new draft clarifies that language  
26 and, in conjunction with section 6, establishes a fee  
27 for recording and discharging the lien and designates  
28 who is responsible for payment of that lien. The new  
29 draft also provides that persons can be taken back  
30 into custody without issuance of further process if  
31 the lien is not filed in conformity with the statute.

32 Section 3 provides that a judge who releases a  
33 person accused of a Class A, Class B or Class C crime  
34 on personal recognizance or on execution of a secured  
35 bond shall state in writing why release was appropri-  
36 ate. The new draft also allows this statement to be  
37 made "on the record" in case the proceeding is re-  
38 corded.

