

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 905

6  
7 H.P. 637

House of Representatives, March 1, 1985

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

10 EDWIN H. PERT, Clerk

Presented by Representative Diamond of Bangor.

11 Cosponsored by Representative Kane of So. Portland, Senator Chalmers  
of Knox and Representative McGowan of Canaan.

12 STATE OF MAINE  
13

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

17 RESOLUTION, Proposing an Amendment  
18 to the Constitution of Maine  
19 to Provide for an Express Statement of the  
20 Right to Bail and Authorizing the Denial of  
21 Bail in Certain Cases.  
22

23 Constitutional amendment. RESOLVED: Two thirds  
24 of each branch of the Legislature concurring, that  
25 the following amendment to the Constitution of Maine  
26 be proposed:

27 Constitution, Art. I, §10 is amended to read;

28 10. Bailable offenses; habeas corpus. No person  
29 before conviction shall be bailable for any of the  
30 crimes which now are, or have been denominated capi-  
31 tal offenses since the adoption of the Constitution ;  
32 when the proof is evident or the presumption great,  
33 whatever the punishment of the crimes may be. Every  
34 person before adjudication shall have the right to  
35 reasonable bail or other conditions of release, ex-  
36 cept when the offense charged is a serious crime

1 against the person and it is probable that conviction  
2 or adjudication for the offense charged will result  
3 and there is clear and convincing evidence that no  
4 combination of bail or other release conditions will  
5 reasonably minimize the substantial risk of  
6 nonappearance for court proceedings, the commission  
7 of another such offense or a threat to the integrity  
8 of the judicial process. And the privilege of the  
9 writ of habeas corpus shall not be suspended, unless  
10 when in cases of rebellion or invasion the public  
11 safety may require it.

12 Constitutional referendum procedure; form of  
13 question; effective date. Resolved: That the city  
14 aldermen, town selectmen and plantation assessors of  
15 this State shall notify the inhabitants of their re-  
16 spective cities, towns and plantations to meet, in  
17 the manner prescribed by law for holding a statewide  
18 election, at a statewide election, on the Tuesday  
19 following the first Monday of November following the  
20 passage of this resolution, to vote upon the ratifi-  
21 cation of the amendment proposed in this resolution  
22 by voting upon the following question:

23 "Shall the Constitution of Maine be amended as  
24 proposed by a resolution of the Legislature to pro-  
25 vide for an express statement of the right to bail  
26 and authorizing the denial of bail in certain cases?"

27 The legal voters of each city, town and  
28 plantation shall vote by ballot on this question, and  
29 shall designate their choice by a cross or check mark  
30 placed within the corresponding square below the word  
31 "Yes" or "No." The ballots shall be received,  
32 sorted, counted and declared in open ward, town and  
33 plantation meetings and returns made to the Secretary  
34 of State in the same manner as votes for members of  
35 the Legislature. The Governor shall review the re-  
36 turns and, if it appears that a majority of the legal  
37 votes are in favor of the amendment, the Governor  
38 shall proclaim that fact without delay and the amend-  
39 ment shall become part of the Constitution on the  
40 date of the proclamation.

41 Secretary of State shall prepare ballots. Re-  
42 solved: That the Secretary of State shall prepare

1 and furnish to each city, town and plantation all  
2 ballots, returns and copies of this resolution neces-  
3 sary to carry out the purposes of this referendum.

4 STATEMENT OF FACT

5 This constitutional resolution amends the Consti-  
6 tution of Maine, Article I, Section 10, as recom-  
7 mended by the Governor's Commission to Study the Laws  
8 Relating to Bail in Criminal Cases. In particular,  
9 the resolution expressly recognizes the constitution-  
10 al right of every person to "reasonable bail or other  
11 conditions of release." The resolution also recog-  
12 nizes the authority to deny bail altogether in cer-  
13 tain situations.

14

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