

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 110, L.D. 325)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1452

8 S.P. 543

In Senate, May 1, 1985

9 Reported by Majority Report from the Committee on Judiciary and
10 printed under Joint Rule 2. Original bill sponsored by Senator Carpenter of
11 Aroostook. Cosponsored by Representative Kane of So. Portland,
Representative MacBride of Presque Isle and Senator Chalmers of Knox.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT Providing for Change of Venue of
19 Criminal Cases.
20

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

23 15 MRSA §1, 2nd ¶, as enacted by PL 1975, c. 337,
24 §3, is amended to read:

25 The Supreme Judicial Court may by rule provide
26 that, with the consent of the defendant, ~~criminal~~
27 ~~prosecutions~~ post-arraignment proceedings in criminal
28 cases may be conducted at locations other than those
29 provided by law statute. The Supreme Judicial Court
30 may by rule provide that, without the consent of the
31 defendant, post-arraignment proceedings in criminal
32 cases may be conducted at locations other than those
33 provided by statute, provided that the location is in
34 an adjoining county and that it is in the vicinity of
35 where the offense was committed.

1 STATEMENT OF FACT

2 The purpose of this new draft is to provide for 2
3 possibilities in the transferring of a criminal case
4 from one venue to another.

5 The new draft makes it clear that, with the con-
6 sent of the defendant, a criminal trial may be moved
7 anywhere in the State. This provision protects crim-
8 inal defendants who may need to have their trial
9 moved some distance from the place where the crime
10 was committed so that they can receive a fair trial
11 untainted by pretrial publicity. The new draft pre-
12 serves this provision of current law.

13 The new draft provides that, by rule, the court
14 may, without the consent of the defendant, change the
15 venue of a criminal case from the place where the
16 crime occurred, but may only move the trial to an ad-
17 joining county that is in the vicinity of where the
18 crime occurred. The Constitution of Maine provides
19 that a criminal defendant is entitled to a trial by a
20 jury of the vicinity. This new draft emphasizes that
21 fact, and makes it clear that "vicinity" cannot be
22 interpreted to mean that a criminal trial may be
23 moved any farther away than an adjoining county. The
24 constitutional limitation also means that not every
25 adjoining county, nor every place in an adjoining
26 county, may be near enough to be within the vicinity
27 of the crime. The Supreme Judicial Court has inter-
28 preted "vicinity" to mean "neighborhood." See State
29 v. Baldwin, 305 A.2d 555,559 (Me. 1973). Thus, some
30 counties which adjoin others may still not be in the
31 neighborhood of the place where the crime was commit-
32 ted.

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