

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 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1679

7 H.P. 1182 House of Representatives, December 18, 1985
8 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 26.

9 Received by the Clerk of the House on December 18, 1985. Referred to
10 the Committee on Judiciary and 1,600 ordered printed pursuant to Joint Rule
14.

EDWIN H. PERT, Clerk
Presented by Representative Crowley of Stockton Springs
Cosponsored by Representative Murphy of Kennebunk, Representative
11 Allen of Washington and Senator Carpenter of Aroostook.

12 STATE OF MAINE
13

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

17 AN ACT to Revise the Laws Pertaining to Bail
18 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, sec-
27 tion 943, if the party is imprisoned and detained for
28 a bailable offense, he shall be admitted to bail if
29 sufficient bail is offered. If not, he shall be re-
30 manded, with an order of the court or justice ex-
31 pressing 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
34 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 of Maine, and except as otherwise provided
11 in Title 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 aailable 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 aailable 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 combination
25 of conditions of release set forth in subsection 2
26 that will reasonably assure the safety of any other
27 person or the community. No financial condition may
28 be imposed to assure the safety of any person or the
29 community.

30 2. Factors in determining detention or release.
31 In determining whether the person should be detained
32 or which conditions of release will reasonably assure
33 the safety of any other person or the community, the
34 judge shall, on the basis of available information,
35 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 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 dur-
6 ing specified periods and abide by such other se-
7 vere restrictions on the person's freedom, asso-
8 ciations or activities that the judge deems ap-
9 propriate.

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 rea-
20 sonably assure the safety of any other person or
21 the community.

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

25 6. Order. A judge authorizing the release or de-
26 tention 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 im-
29 posed and any conditions of release imposed and shall
30 advise that person of the penalty applicable to a vi-
31 olation of a condition of his release.

1

STATEMENT OF FACT

2
3
4
5
6
7

The purpose of this bill is to make changes in the bail laws so that a person charged with a Class A, B or C crime may be detained and not released on bail if a judge finds, after a hearing, that the person poses a danger to any other person or to the community.

8

5284120785