

MAINE STATE LEGISLATURE

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(NEW DRAFT OF H.P. 1492, L.D. 2042)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2529

H.P. 1847 House of Representatives, March 15, 1988
Reported by Representative PARADIS from the Committee on
Judiciary and printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill sponsored by Representative TAYLOR of
Camden. Cosponsored by Representatives STROUT of Windham,
MANNING of Portland and Senator GOULD of Waldo.

STATE OF MAINE

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

1 AN ACT Relating to the Time Limit for
2 Delivering the Warrant or Process by Which a
3 Prisoner is Detained.
4

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

7 14 MRSA §5532 is repealed and the following
8 enacted in its place:

1 §5532. Neglect of officer to deliver copy of precept

2 An officer forfeits \$200 to a prisoner if the
3 officer refuses or neglects, within the time period
4 provided in subsection 1 or 2, to deliver a true and
5 attested copy of the warrant or process by which the
6 officer detains a prisoner to any person who demands
7 it and tenders the fee for the copy.

8 1. Sentenced prisoners. In the case of sentenced
9 prisoners, the copy of the warrant or process must be
10 delivered within 3 business days of the demand. As
11 used in this subsection, "business day" has the same
12 meaning as found in Title 21-A, section 1, subsection
13 4.

14 2. Other prisoners. In the case of any prisoner
15 other than a sentenced prisoner, the copy of the
16 warrant or process must be delivered within 4 hours of
17 the demand.

18 STATEMENT OF FACT

19 Present law requires prison or jail officials to
20 provide a copy of the warrant or process by which they
21 are holding a prisoner to any person who requests it
22 within 4 hours of the request. If the copy is not
23 provided within this time, the officer to whom the
24 request is made must pay \$200 to the prisoner.
25 Although the purpose of this law is to ensure that
26 prisoners can promptly discover the legal authority by
27 which they are being held, the law could place a
28 severe hardship upon prison or jail officials who
29 receive such requests during the night when records
30 offices are closed or if several prisoners made such a
31 request at the same time. To avoid this problem, the
32 new draft allows prison officials up to 3 working days
33 in which to provide the requested copies if the
34 prisoner on behalf of whom the request is made has
35 already been convicted and sentenced to imprisonment.
36 Presumably a convicted and sentenced prisoner will
37 know why he is being held and there is less urgency to
38 provide the necessary documentation in that case. The
39 present requirement of delivery within 4 hours is

1 retained for all other prisoners in order to ensure
2 that they may obtain proof of the legal authority by
3 which they are being held within a reasonably prompt
4 period of time.

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