

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1524

H.P. 1091

House of Representatives, May 8, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative MURPHY of Berwick.

STATE OF MAINE

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

An Act Regarding Resisting Arrest or Detention.



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

3 **17-A MRSA §752-B is enacted to read:**

5 **§752-B. Resisting arrest**

7 **1. A person is guilty of resisting arrest if that person**
9 **intentionally or knowingly prevents or attempts to prevent a law**
9 **enforcement officer from effecting an arrest of that person.**

11 **2. It is no defense to a prosecution under this section**
13 **that the arrest is, under the circumstances, unlawful or that the**
13 **person reasonably believes the arrest to be unlawful.**

15 **3. It is an affirmative defense to a prosecution under this**
17 **section that the actor was unaware that the person attempting to**
17 **effect the arrest was a law enforcement officer.**

19 **4. Resisting arrest is a Class D crime.**

21

23 **STATEMENT OF FACT**

25 This bill creates a new crime of resisting arrest. It is
27 specifically proposed to help minimize the potential of physical
27 injury to both the citizen and the law enforcement officer at the
29 time of an arrest by denying to the citizen the right to resist
29 physically what that citizen may perceive to be and, what may in
31 fact be, an illegal arrest. The citizen may present the issue of
31 the legality of the arrest to a court following the arrest.
33 Although the bill makes it a crime for a citizen to resist a law
33 enforcement officer's use of reasonable, nondeadly force to
effect an arrest, whether legal or illegal, it does not limit the
35 right of the citizen to self defense if the officer in making the
arrest uses more force than the law allows.