

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 523

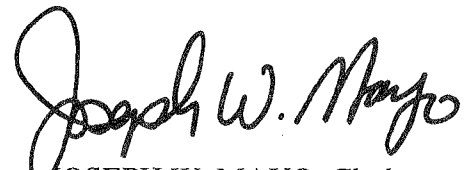
H.P. 378

House of Representatives, January 28, 1997

An Act to Require Law Enforcement Officers to Furnish an Affidavit of Probable Cause to Holding Facilities.

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative BUNKER of Kossuth Township.
Cosponsored by Representatives: McALEVEY of Waterboro, WHEELER of Bridgewater.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, detaining facilities currently do not receive
6 notice of the preliminary determination of probable cause with
regard to an alleged crime; and

8 Whereas, without that information, the detaining facilities
10 can neither hold the person accused of the crime nor release that
person; and

12 Whereas, in the judgment of the Legislature, these facts
14 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

20 **Sec. 1. 15 MRSA §708-A** is enacted to read:

22 §708-A. Finding regarding probable cause

24 A law enforcement officer who makes an arrest shall provide
26 the facility holding the person arrested with a written
28 declaration that the officer will give the facility a copy of the
30 document endorsed, pursuant to the Maine Rules of Criminal
32 Procedure, by a District Court judge or justice of the peace with
a finding regarding probable cause. If the officer fails to
provide the holding facility with a copy of the document within
24 hours of the endorsement, the holding facility may release the
person arrested.

34 **Emergency clause.** In view of the emergency cited in the
36 preamble, this Act takes effect when approved.

38 **SUMMARY**

40 The Maine Rules of Criminal Procedure require a District
42 Court judge or a justice of the peace to determine, within 48
hours of an arrest, whether there is probable cause to hold the
44 person who has been arrested. This bill requires the arresting
officer to give the holding facility a written promise that the
46 officer will furnish the facility with a copy of the document
endorsed by the District Court judge or justice of the peace with
48 the determination. It permits the holding facility to release
the person arrested if the officer fails to provide a copy of the
50 document within 24 hours of the determination.