

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 542

H.P. 397

House of Representatives, January 28, 1997

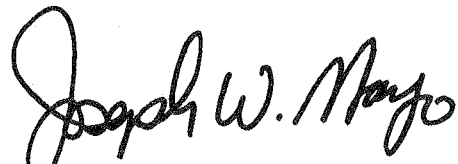
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**An Act to Make Appeals to the Law Court From Revocation of  
Probation Proceedings Conditional and to Clarify the Matter of Bail  
Pending Final Disposition of a Motion for Revocation of Probation.**

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Reported by Representative THOMPSON for the Criminal Law Advisory Commission  
under the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered  
under Joint Rule 218.

  
JOSEPH W. MAYO, Clerk

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

2  
4       **Sec. 1. 17-A MRSA §1205, sub-§8** is enacted to read:

6       8. In deciding whether to release a person on bail as  
8       provided in this section or to revoke bail, the court must be  
10       guided by the standards of post-conviction bail as set forth in  
12       Title 15, section 1051, sureties and other forms of bail  
14       provisions in Title 15, subchapter IV and the revocation  
16       procedure in Title 15, section 1098.

18       **Sec. 2. 17-A MRSA §1206, sub-§3**, as amended by PL 1993, c.  
20       234, §1, is further amended to read:

22       3. If a hearing is ordered, the person on probation must be  
24       notified, and the court may issue a summons or may issue a  
26       warrant for the person's arrest and order the person committed,  
28       with or without bail, pending the hearing. In deciding whether  
30       to release a person on bail as provided in this subsection or to  
32       revoke bail, the court must be guided by the standards of  
34       post-conviction bail as set forth in Title 15, section 1051,  
36       sureties and other forms of bail provisions in Title 15,  
38       subchapter IV and the revocation procedure in Title 15, section  
40       1098.

42       **Sec. 3. 17-A MRSA §1207**, as amended by PL 1993, c. 234, §3,  
44       is repealed and the following enacted in its place:

46       §1207. Review

48       Review of a revocation of probation pursuant to section 1206  
50       must be by appeal.

52       1. District Court proceeding. In a probation revocation  
54       proceeding in the District Court, a person whose probation is  
56       revoked may appeal to the Superior Court under Title 15, section  
58       2111 and the applicable Maine Rules of Criminal Procedure. An  
60       appeal to the Law Court, from an adverse decision of the Superior  
62       Court sitting as an intermediate appellate court, is not an  
64       appeal of right. The time, manner and specific conditions for  
66       taking that appeal to the Law Court are as the Supreme Judicial  
68       Court provides in the Maine Rules of Criminal Procedure.

70       2. Superior Court proceeding. In a probation revocation  
72       proceeding in the Superior Court, a person whose probation is  
74       revoked may not appeal as of right. The time, manner and  
76       specific conditions for taking that appeal to the Law Court are  
78       as the Supreme Judicial Court provides in the Maine Rules of  
80       Criminal Procedure.

2           3. Assignment and withdrawal of counsel. Assignment and  
4 withdrawal of counsel must be in accordance with the Maine Rules  
of Criminal Procedure.

6  
8                                   **SUMMARY**

10           This bill amends current law to provide guidance to the  
11 court in exercising its discretion to set bail or revoke bail in  
12 the context of a probation revocation proceeding. The bill  
13 requires a court to be guided by the standards relating to  
14 post-conviction bail in the Maine Bail Code and the sureties and  
15 other forms of bail provisions in the Maine Bail Code. If the  
16 court is considering revocation of bail then it must be guided by  
the Maine Bail Code revocation procedure for revocation of  
17 post-conviction bail.

18  
19           The bill also amends current law to allow the Supreme  
20 Judicial Court by rule to condition an appeal to the Law Court  
21 upon the granting of a certificate of probable cause when the  
22 appeal is either by a person whose probation is revoked in the  
23 Superior Court or by a person whose probation is revoked in the  
24 District Court and has been unsuccessful before the Superior  
Court sitting as an intermediate appellate court.