

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1236

H.P. 922

House of Representatives, February 28, 2001

An Act to Strengthen the Bail Laws for Repeat Offenders.

Reference to the Committee on Criminal Justice suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative TOBIN of Dexter.
Cosponsored by Senator MITCHELL of Penobscot and
Representatives: ANNIS of Dover-Foxcroft, BLANCHETTE of Bangor, GERZOFSKY of
Brunswick, PEAVEY of Woolwich, QUINT of Portland, SNOWE-MELLO of Poland,
WHEELER of Bridgewater, Senator: DAVIS of Piscataquis.

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

2
4 **Sec. 1. 15 MRSA §1026, sub-§2**, as amended by PL 1997, c. 585, §3, is further amended to read:

6 **2. Release on personal recognizance or unsecured appearance**
7 **bond.** The judicial officer shall order the pretrial release of
8 the defendant on personal recognizance or upon execution of an
9 unsecured appearance bond in an amount specified by the judicial
10 officer, unless the judicial officer determines that the release
11 will not reasonably ensure the appearance of the defendant as
12 required ~~or~~, will not otherwise reasonably ensure the integrity
13 of the judicial process or will not reasonably prevent new
14 criminal conduct by the defendant.

16 **Sec. 2. 15 MRSA §1026, sub-§3**, as amended by PL 1997, c. 543,
17 §7, is further amended to read:

18 **3. Release on conditions.** Conditions that will reasonably
19 ensure the appearance of the defendant ~~and~~, ensure the integrity
20 of the judicial process and prevent new criminal conduct by the
21 defendant must be imposed as provided in this subsection.

22 A. If the judicial officer determines that the release
23 described in subsection 2 will not reasonably ensure the
24 appearance of the defendant as required ~~or~~, will not
25 otherwise reasonably ensure the integrity of the judicial
26 process or will not reasonably prevent new criminal conduct
27 by the defendant, the judicial officer shall order the
28 pretrial release of the defendant subject to the least
29 restrictive further condition or combination of conditions
30 that the judicial officer determines will reasonably ensure
31 the appearance of the defendant as required ~~and~~, will
32 otherwise reasonably ensure the integrity of the judicial
33 process and will reasonably prevent new criminal conduct by
34 the defendant. These conditions may include that the
35 defendant:

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37
38 (1) Remain in the custody of a designated person or
39 organization agreeing to supervise the defendant,
40 including a public official, public agency or publicly
41 funded organization, if the designated person or
42 organization is able to reasonably ensure ~~both~~ the
43 appearance of the defendant as required ~~and~~, will
44 reasonably ensure the integrity of the judicial process
45 and will reasonably prevent new criminal conduct by the
46 defendant. When feasible, the judicial officer shall
47 impose the responsibility upon the defendant to produce
48 the designated person or organization. The judicial
49 officer may interview the designated person or
50

- 2 organization to ensure satisfaction of both the
willingness and ability required. The designated
4 person or organization shall agree to notify
immediately the judicial officer of any violation of
6 release by the defendant;
- 8 (2) Maintain employment or, if unemployed, actively
seek employment;
- 10 (3) Maintain or commence an educational program;
- 12 (4) Abide by specified restrictions on personal
associations, place of abode or travel;
- 14 (5) Avoid all contact with a victim of the alleged
16 crime, a potential witness regarding the alleged crime
or with any other family or household members of the
18 victim or the defendant or to contact those individuals
only at certain times or under certain conditions;
- 20 (6) Report on a regular basis to a designated law
22 enforcement agency or other governmental agency;
- 24 (7) Comply with a specified curfew;
- 26 (8) Refrain from possessing a firearm or other
dangerous weapon;
- 28 (9) Refrain from use or excessive use of alcohol and
30 from any use of drugs;
- 32 (10) Undergo, as an outpatient, available medical or
34 psychiatric treatment, or enter and remain, as a
voluntary patient, in a specified institution when
36 required for that purpose;
- 38 (11) Execute an agreement to forfeit, upon failing to
appear as required, such designated property, including
40 money, as is reasonably necessary to ensure the
appearance of the defendant as required and, to ensure
42 the integrity of the judicial process, to reasonably
prevent new criminal conduct by the defendant and to
44 post with an appropriate court such evidence of
ownership of the property or such percentage of the
46 money as the judicial officer specifies;
- 48 (12) Execute a bail bond with sureties in such amount
as is reasonably necessary to ensure the appearance of
the defendant as required and, to ensure the integrity

2 of the judicial process and to reasonably prevent new
3 criminal conduct by the defendant;

4 (13) Return to custody for specified hours following
5 release for employment, schooling or other limited
6 purposes;

7 (14) Report on a regular basis to the defendant's
8 attorney;

9 (15) Notify the court of any changes of address or
10 employment;

11 (16) Provide to the court the name, address and
12 telephone number of a designated person or organization
13 that will know the defendant's whereabouts at all times;

14 (17) Inform any law enforcement officer of the
15 defendant's condition of release if the defendant is
16 subsequently arrested or summoned for new criminal
17 conduct; and

18 (18) Satisfy any other condition that is reasonably
19 necessary to ensure the appearance of the defendant as
20 required and, to otherwise reasonably ensure the
21 integrity of the judicial process and to reasonably
22 prevent new criminal conduct by the defendant.

23 B. The judicial officer may not impose a financial
24 condition that, either alone or in combination with other
25 conditions of bail, is in excess of that reasonably
26 necessary to ensure the appearance of the defendant as
27 required or, to otherwise ensure the integrity of the
28 judicial process or to reasonably prevent new criminal
29 conduct by the defendant.

30 C. Upon motion by the attorney for the State or the
31 defendant and after notice and upon a showing of changed
32 circumstances or upon the discovery of new and significant
33 information, the court may amend the bail order to relieve
34 the defendant of any condition of release, modify the
35 conditions imposed or impose further conditions authorized
36 by this subsection as the court determines will reasonably
37 ensure the appearance of the defendant as required and, will
38 otherwise reasonably ensure the integrity of the judicial
39 process and will reasonably prevent new criminal conduct by
40 the defendant.

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SUMMARY

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4 This bill changes the bail law by requiring a bail
6 commissioner or a court to consider the possibility of commission
8 of new criminal conduct while on bail in deciding whether to
10 release a defendant on personal recognizance or unsecured bail.
12 Current law allows the judicial officer to only consider the
14 possibility of a failure to appear or harm to a narrow list of
16 persons; therefore, defendants with significant criminal history,
18 including repeated criminal violations of past bail orders, are
eligible for release on personal recognizance or unsecured bail
without conditions, unless there is a demonstrated risk of
nonappearance. The bill requires the judicial officer to
consider the defendant's history in making the initial decision
to release the defendant on personal recognizance or unsecured
bail. The defendant whose history demonstrates a likelihood of
new criminal conduct while on bail generally will be required to
be released only with conditions set under the Maine Revised
Statutes, Title 15, section 1026, subsection 3.