

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 514

S.P. 169

February 2, 2007

An Act To Protect Community Safety by Amending Maine's Bail Code

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.

Cosponsored by Senator MITCHELL of Kennebec, Representative CANAVAN of Waterville and Senators: MARRACHÉ of Kennebec, McCORMICK of Kennebec, Representatives: BRYANT of Windham, CLARK of Millinocket, FLETCHER of Winslow, GERZOFISKY of Brunswick, HANLEY of Gardiner, HASKELL of Portland, HILL of York, MAREAN of Hollis, MOORE of Standish, PLUMMER of Windham, SYKES of Harrison, TRINWARD of Waterville.

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

2 **Sec. 1. 15 MRSA §1026, sub-§1, ¶A,** as amended by PL 1997, c. 543, §7, is
3 further amended to read:

4 A. On personal recognizance or upon execution of an unsecured appearance bond
5 under subsection ~~2~~ 2-A;

6 **Sec. 2. 15 MRSA §1026, sub-§2,** as amended by PL 2001, c. 252, §1, is repealed.

7 **Sec. 3. 15 MRSA §1026, sub-§2-A** is enacted to read:

8 **2-A. Release on personal recognizance or unsecured appearance bond.** The
9 judicial officer shall order the pretrial release of the defendant on personal recognizance
10 or upon execution of an unsecured appearance bond in an amount specified by the
11 judicial officer, unless, after consideration of the factors listed in subsection 4, the judicial
12 officer determines that:

13 A. The release would not reasonably ensure the appearance of the defendant as
14 required;

15 B. The release would not reasonably ensure the integrity of the judicial process; or

16 C. The release would compromise the safety of the community.

17 **Sec. 4. 15 MRSA §1026, sub-§3, ¶A,** as amended by PL 2005, c. 449, §1, is
18 further amended to read:

19 A. If, after consideration of the factors listed in subsection 4, the judicial officer
20 determines that the release described in subsection ~~2~~ 2-A will not reasonably ensure
21 the appearance of the defendant as required ~~or~~, will not otherwise reasonably ensure
22 the integrity of the judicial process or will compromise the safety of the community,
23 the judicial officer shall order the pretrial release of the defendant subject to the least
24 restrictive further condition or combination of conditions that the judicial officer
25 determines will reasonably ensure the appearance of the defendant as required ~~and,~~
26 will otherwise reasonably ensure the integrity of the judicial process and will not
27 compromise the safety of the community. These conditions may include that the
28 defendant:

29 (1) Remain in the custody of a designated person or organization agreeing to
30 supervise the defendant, including a public official, public agency or publicly
31 funded organization, if the designated person or organization is able to
32 reasonably ensure ~~both~~ the appearance of the defendant as required ~~and,~~ the
33 integrity of the judicial process and the safety of the community. When it is
34 feasible to do so, the judicial officer shall impose the responsibility upon the
35 defendant to produce the designated person or organization. The judicial officer
36 may interview the designated person or organization to ensure satisfaction of
37 both the willingness and ability required. The designated person or organization
38 shall agree to notify immediately the judicial officer of any violation of release
39 by the defendant;

- 1 (2) Maintain employment or, if unemployed, actively seek employment;
- 2 (3) Maintain or commence an educational program;
- 3 (4) Abide by specified restrictions on personal associations, place of abode or
- 4 travel;
- 5 (5) Avoid all contact with a victim of the alleged crime, a potential witness
- 6 regarding the alleged crime or with any other family or household members of
- 7 the victim or the defendant or to contact those individuals only at certain times or
- 8 under certain conditions;
- 9 (6) Report on a regular basis to a designated law enforcement agency or other
- 10 governmental agency;
- 11 (7) Comply with a specified curfew;
- 12 (8) Refrain from possessing a firearm or other dangerous weapon;
- 13 (9) Refrain from use or excessive use of alcohol and from any use of drugs;
- 14 (10) Undergo, as an outpatient, available medical or psychiatric treatment, or
- 15 enter and remain, as a voluntary patient, in a specified institution when required
- 16 for that purpose;
- 17 (10-A) Enter and remain in a long-term residential facility for the treatment of
- 18 substance abuse;
- 19 (11) Execute an agreement to forfeit, upon failing to appear as required, such
- 20 designated property, including money, as is reasonably necessary to ensure the
- 21 appearance of the defendant as required and to ensure the integrity of the judicial
- 22 process and post with an appropriate court such evidence of ownership of the
- 23 property or such percentage of the money as the judicial officer specifies;
- 24 (12) Execute a bail bond with sureties in such amount as is reasonably necessary
- 25 to ensure the appearance of the defendant as required and to ensure the integrity
- 26 of the judicial process;
- 27 (13) Return to custody for specified hours following release for employment,
- 28 schooling or other limited purposes;
- 29 (14) Report on a regular basis to the defendant's attorney;
- 30 (15) Notify the court of any changes of address or employment;
- 31 (16) Provide to the court the name, address and telephone number of a
- 32 designated person or organization that will know the defendant's whereabouts at
- 33 all times;
- 34 (17) Inform any law enforcement officer of the defendant's condition of release
- 35 if the defendant is subsequently arrested or summoned for new criminal conduct;
- 36 and
- 37 (18) Satisfy any other condition that is reasonably necessary to ensure the
- 38 appearance of the defendant as required and to otherwise reasonably ensure the
- 39 integrity of the judicial process.

Sec. 5. 15 MRSA §1026, sub-§5, as amended by PL 1997, c. 543, §7, is further amended to read:

5. Contents of release order. In a release order issued under subsection 2 2-A or 3, the judicial officer shall:

A. Include a written statement **that** sets forth all the conditions to which the release is subject in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and

B. Advise the defendant of:

(1) The penalties if the defendant fails to appear as required; and

(2) The penalties for and consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest.

SUMMARY

This bill adds to the factors that a judicial officer must consider before allowing the pretrial release of a defendant on personal recognizance or an unsecured appearance bond the determination that the defendant's release will not compromise the safety of the community.