

MAINE STATE LEGISLATURE

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S. P. 365

In Senate, February 11, 1941.

Referred to Committee on Judiciary. Sent down for concurrence and 650 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Harvey of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT Relating to Arrests in Criminal Cases.

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

Sec. 1. Questioning and detaining suspects. A peace officer may detain any person abroad whom he has reason to suspect is committing, has committed or is about to commit a crime, and may demand of him his name, address, business abroad and whither he is going; and any such person who fails to identify himself and explain his actions to the satisfaction of such peace officer may be further detained and further questioned and investigated by any peace officer: provided, in no case shall the total period of such detention exceed 2 hours, and such detention shall not be recorded as an arrest in any official record. At the end of any such detention period the person so detained shall be released unless arrested and charged with a crime.

Sec. 2. Searching for weapons. A peace officer may search for a dangerous weapon any person he is questioning or about to question concerning any crime or suspected crime, whenever he reasonably believes that he is in danger from such person carrying such weapon, and if such person is carrying a dangerous weapon, such officer may take and keep it until

the completion of such questioning, when he shall either return it or arrest such person.

Sec. 3. Arrest; how made. (a) An arrest is made by the restraint of the person to be arrested or by his submission of his person to the custody of the person making the arrest.

(b) No means of restraint other than is necessary shall be used for the detention of any person, and no unnecessary or unreasonable force shall be used in making an arrest.

(c) A peace officer may use force dangerous to human life to make a lawful arrest on a charge of felony, whenever he reasonably believes that such force is necessary to effect the arrest and that the person to be arrested is aware that a peace officer is attempting to arrest him.

Sec. 4. Resisting illegal arrest. It shall be unlawful for any person to use force or any weapon in resisting an illegal arrest by a peace officer, if such person has reasonable ground to believe that he is being arrested and that the arrest is being made by a peace officer.

Sec. 5. Arrest without a warrant for a misdemeanor. A peace officer may without a warrant arrest a person for a misdemeanor, whenever:

(a) The officer has reasonable ground to believe that a misdemeanor has been or is being committed in his presence and that the person to be arrested has committed or is committing it.

(b) The person to be arrested in fact has committed or is committing a misdemeanor in the presence of the officer, and in such case it shall be immaterial that the officer did not believe him guilty or on unreasonable grounds entertained belief in his guilt.

(c) The officer has reasonable ground to believe that the person to be arrested has committed a misdemeanor and either cannot be arrested later or has fled the scene of the crime; provided, an arrest under clauses (a) and (b) must be made within 24 hours after the commission of the misdemeanor, but an arrest under clause (c) may be made at any time.

Sec. 6. Arrest without a warrant for a felony. A peace officer may without a warrant arrest a person for a felony, whenever:

(a) The officer has reasonable ground to believe that a felony has been or is being committed and that the person to be arrested has committed or is committing it.

(b) The person to be arrested in fact has committed or is committing a felony, and in such case it shall be immaterial that the officer did not believe him guilty or on unreasonable grounds entertained belief in his guilt.

Sec. 7. Arrest on improper grounds. If a lawful cause of arrest exists, the arrest shall be lawful even though the officer made the arrest on an improper ground.

Sec. 8. Arrest by virtue of warrant not in officer's possession. A peace officer may without having the warrant therefor in his possession arrest any person for whose arrest a warrant has been issued, but after arrest, if the person arrested so requires, the warrant shall be shown to him as soon as practicable.

Sec. 9. Summons instead of arrest. In any case in which a peace officer is authorized to arrest without a warrant a person for a misdemeanor, he may instead issue to him a summons substantially in the following form:

(Summons)

STATE OF MAINE

To: :
You are hereby notified to appear before the Court
to be holden at in the County of
in the State of Maine, on the day of, 19 .. at
..... o'clock in the forenoon to answer to a complaint (to be filed in
said court) charging you with in violation of the laws of
the State of Maine.

Hereof fail not, as you will answer your default under the penalty of the law in that behalf made and provided.

Dated at the day of 19 ..

Title

Department

Whoever fails to appear in answer to such summons shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days. Upon failure to appear, a warrant of arrest may issue.

Sec. 10. Release of persons arrested. The officer in charge of any police station may release any person in his station who has been arrested without a warrant:

(a) Without requiring such person to appear in court, when he is satisfied that there is no ground for making a criminal complaint against such person or when such person has been arrested for drunkenness but in the judgment of the officer need not be brought before a magistrate; or

(b) If the arrest is for a misdemeanor, upon that person signing an agreement to appear in court at a time designated.

Sec. 11. Length of detention. Every person arrested shall be released either on bail or as provided in section 10 or shall be arraigned within 24 hours from the time of his arrest, Sundays and holidays excepted, unless a judge of the superior court for good cause shown orders that he be held for a further period of not exceeding 48 hours.