

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

N I N E T I E T H L E G I S L A T U R E

Legislative Document

No. 1218

H. P. 1985

House of Representatives, January 14, 1942.

Referred to Committee on Judiciary and 750 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Shesong of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-TWO

AN ACT Enacting the "Uniform Arrest Act."

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

Sec. 1. Definitions. As used in this act:

"Arrest" is the taking of a person into custody in order that he may be forthcoming to answer for the commission of a crime.

"Felony" is any crime punishable by imprisonment for 1 year or more. Any other crime or any violation of municipal ordinances is a misdemeanor.

"Peace officer" is any public officer authorized by law to make arrests in a criminal case.

Sec. 2. Questioning and detaining suspects. (1) A peace officer may stop any person abroad whom he has reasonable ground 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.

(2) Any person so questioned who fails to identify himself or explain

his actions to the satisfaction of the officer may be detained and further questioned and investigated.

(3) The total period of detention provided for by this section shall not exceed 2 hours. The detention is not an arrest and shall not be recorded as an arrest in any official record. At the end of the detention the person so detained shall be released or be arrested and charged with a crime.

Sec. 3. Searching for weapons. A peace officer may search for a dangerous weapon any person whom he has stopped or detained to question as provided in section 2, whenever he has reasonable ground to believe that he is in danger if the person possesses a dangerous weapon. If the officer finds a weapon, he may take and keep it until the completion of the questioning, when he shall either return it or arrest the person. The arrest may be for the illegal possession of the weapon.

Sec. 4. Arrest; permissible force. (1) No unreasonable force or means of restraint shall be used in detaining or arresting any person.

(2) A peace officer who is making an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall he be deemed an aggressor or lose his right to self defense by the use of reasonable force to effect an arrest.

(3) A peace officer, who has reasonable ground to believe that the person to be arrested has committed a felony, is justified in using such force as may be necessary to effect an arrest, to prevent escape or to overcome resistance only when:

(A) There is no other apparently possible means of making the arrest or preventing escape, and

(B) The officer has made every reasonable effort to advise the person that he is a peace officer and is making an arrest.

Sec. 5. Resisting arrest. If a person has reasonable ground to believe that he is being arrested by a peace officer, it is his duty to refrain from using force or any weapon in resisting arrest regardless of whether or not there is a legal basis for the arrest.

Sec. 6. Arrest without a warrant. (1) An arrest by a peace officer without a warrant for a misdemeanor is lawful whenever:

(A) He has reasonable ground to believe that the person to be arrested has committed a misdemeanor in his presence.

(B) He has reasonable ground to believe that the person to be arrested has committed a misdemeanor out of his presence, either within the state or without the state, if law enforcement officers of the state where the misdemeanor was committed so request, and will not be apprehended unless immediately arrested.

(2) An arrest by a peace officer without a warrant for a felony, whether committed within or without the state, is lawful whenever :

(A) He has reasonable ground to believe that the person to be arrested has committed a felony, whether or not a felony has in fact been committed.

(B) A felony has been committed by the person to be arrested although before making the arrest the officer had no reasonable ground to believe the person committed it.

Sec. 7. Arrest on improper grounds. If a lawful cause of arrest exists, the arrest is lawful even though the officer charges the wrong offense or gives a reason that does not justify the arrest.

Sec. 8. Arrest under a warrant not in officer's possession. An arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in his possession at the time of the arrest, but, if the person arrested so requests, the warrant shall be shown to him as soon as practicable.

Sec. 9. Summons instead of arrest. (1) In any case in which it is lawful for a peace officer to arrest without a warrant a person for a misdemeanor, he may, but need not, give him a written summons in substantially the form provided by law for issuance in an appropriate warrant ;

(2) If the person fails to appear in answer to the summons, or if there is reasonable cause to believe that he will not appear, a warrant for his arrest may issue. Wilful failure to appear in answer to the summons may be punished by a fine of not over \$100 or imprisonment for not over 30 days.

Sec. 10. Release of persons arrested. (1) Any officer in charge of a police department or any officer delegated by him may release, instead of taking before a magistrate, any person who has been arrested without a warrant by an officer of his department whenever :

(A) He is satisfied either that there is no ground for making a criminal complaint against the person or that the person was arrested for drunkenness and no further proceedings are desirable.

(B) The person was arrested for a misdemeanor and has signed an agreement to appear in court at a time designated, if the officer is satisfied that the person is a resident of the state and will appear in court at the time designated.

(2) A person released as provided in this section shall have no right to sue on the ground that he was released without being brought before a magistrate.

Sec. 11. Permissible delay in bringing before magistrate. If not otherwise released, every person arrested shall be brought before a magistrate without unreasonable delay, and in any event he shall, if possible, be so brought within 24 hours of arrest, Sundays and holidays excluded, unless a judge of the municipal court having jurisdiction where he is detained or of the superior court of the county where the crime was committed for good cause shown orders that he be held for a further period of not exceeding 48 hours.

Sec. 12. Identification of witness. Whenever a peace officer has reasonable ground to believe that a crime has been committed, he may stop any person whom he has reasonable ground to believe was present thereat and may demand of him his name and address. If the person fails to identify himself to the satisfaction of the officer, he may take the person forthwith before a magistrate. If the person fails to identify himself to the satisfaction of the magistrate, the latter may require him to furnish (an appearance) bond or may commit him to jail until he so identifies himself.

Sec. 13. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.