

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Pocket Part Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

person confined in jail or held under arrest by virtue of a precept returnable to said term; and when a person is confined in jail for a bailable offense or for not finding sureties on a recognizance and the amount of his bail has been fixed by a justice of the supreme judicial court or of the superior court or by a judge or recorder of a municipal court, a bail commissioner is not authorized to change the amount of such bail. Such bail commissioner shall receive not exceeding the sum of \$5 in each case in which bail is so taken, the same to be paid by the person so admitted to bail; but the person admitted to bail shall not be required to pay any other fees or charges to any officer for services connected with the giving of such bail; provided, however, that if a bail commissioner takes bail after 8:00 P. M. and prior to 8:00 A. M. of the following day he shall be permitted to receive a charge of up to \$10 for the occasion of taking such bail, but said charge shall not be in addition to the charge in each case otherwise authorized in this section but shall be inclusive of such charge or charges.

(1955, c. 356.)

Effect of amendment.—The 1955 amendment added the proviso at the end of the first paragraph. As the second paragraph was not changed, it is not set out.

Sec. 35-A. Surety bonds authorized in criminal cases.—In any criminal proceeding or mesne process or other process where a bail bond recognizance or personal sureties or other obligation is required, or whenever any person is arrested and is required or permitted to recognize with sureties for his appearance in court, the court official or other authority authorized by law to accept and approve the same shall accept and approve in lieu thereof, when offered, a good and sufficient surety bond duly executed by a surety company authorized to do business in this state. (1959, c. 143, § 2.)

Sec. 38. Habeas corpus may issue on application in behalf of mentally ill person.—When a mentally ill person is arrested or imprisoned on mesne process or execution in a civil action, a justice of the supreme judicial court or of the superior court or the judge of probate within his county, on application, may inquire into the case; issue a writ of habeas corpus; cause such person to be brought before him for examination; and after notice to the creditor or his attorney, if either is living in the state, and a hearing, if it is proved to the satisfaction of said justice or judge that the person is mentally ill, he may discharge him from arrest or imprisonment; and the creditor may make a new arrest on the same demand when the debtor becomes of sound mind. If he is arrested on the same demand a second time before he becomes of sound mind and is again discharged for that reason, he is forever after exempt from arrest for the same cause. (R. S. c. 113, § 38. 1961, c. 317, § 448.)

Effect of amendment.—The 1961 amendment substituted “a mentally ill person” for “an insane person” and “action” for “suit” near the beginning of this section and also substituted “mentally ill” for “insane” near the end of the first sentence.

Chapter 126-A.

Coram Nobis.

Sec. 1. Availability of coram nobis; conditions.—Any persons convicted of a crime and incarcerated thereunder, or released on probation, or paroled from a sentence thereof, who claims that his sentence was imposed in violation of the constitution of the United States or the constitution of this state, or that there were errors of fact not of record which were not known to the accused or the court and which by the use of reasonable diligence could not have been known to the accused at the time of trial and which, if known, would have prevented conviction, may institute a coram nobis proceeding to set aside the

plea, conviction and sentence, provided the alleged error has not been previously or finally adjudicated or waived in the proceedings resulting in the conviction or in any other proceeding that the petitioner has taken to secure relief from his conviction.

The remedy of coram nobis provided in this chapter is not a substitute for nor does it affect any remedies which are incident to the proceedings in the trial court, or any other review of the sentence or conviction. A petition may be filed at any time after the criminal conviction is final. (1961, c. 131.)

Sec. 2. Jurisdiction of coram nobis proceedings.—The superior court in the county where the conviction was had shall have jurisdiction of the petition and any hearing held thereunder. (1961, c. 131.)

Sec. 3. Commencement of proceedings; verification; filing; service; amendments.—The proceeding shall be commenced by filing an original petition verified by the petitioner and 2 copies thereof with the clerk of courts in the county where the conviction took place. Facts within the personal knowledge of the petitioner and the authenticity of all documents and exhibits included in or attached to the petition must be sworn to affirmatively as true and correct. The clerk shall file the petition on the docket upon its receipt and bring it promptly to the attention of the court and to the attorney general by sending him a copy of the petition by certified mail. Such petition, while pending, and for cause shown may be amended. Amendments when allowed shall be filed in the same manner as an original petition. (1961, c. 131.)

Sec. 4. Contents of petition.—The petition shall identify the proceedings in which the petitioner was convicted, give the date of the entry of judgment and sentence complained of, specifically alleging valid facts that set forth grounds upon which the petitions is based. The petition shall identify any previous proceedings that the petitioner has taken to secure relief from his conviction, setting forth the type of action, date forum and the result. Argument, citations and discussion of authorities shall be omitted from the petition but may be filed as separate documents. (1961, c. 131.)

Sec. 5. Further pleadings and procedure.—Within 30 days after a copy of the petition has been received by the attorney general from the clerk of courts, or within such further time as the court may fix, the state shall respond by answer or motion. Thereafter the court may order a hearing on the motion or issue a writ notifying the petitioner and the attorney general of the time and place of hearing, the court may grant leave at any time prior to entry of judgment to withdraw the petition. The order making final disposition of the petition shall constitute a final judgment for the purpose of review. (1961, c. 131.)

Sec. 6. Waiver of grounds not claimed.—All grounds for relief claimed by a petitioner under this remedy must be raised by a petitioner in his original or amended petition, and any grounds not so raised are waived unless the court on hearing a subsequent petition finds grounds for relief asserted therein which could not reasonably have been raised in the original or amended petition. (1961, c. 131.)

Sec. 7. Review of final judgment.—A final judgment entered under this chapter may be reviewed by the supreme judicial court sitting as a law court brought by the petitioner or the state in the same mode and scope of review as any civil action. (1961, c. 131.)