MAINE STATE LEGISLATURE

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Chapter 146.

Magistrates in Criminal Cases.

Municipal Courts.

Sec. 2. Criminal jurisdiction; fines, penalties and costs paid over; juvenile courts.

Juvenile courts shall have no jurisdiction over offenses in which a child under the age of 17 years is charged with the violation of any provision of chapter 22 or of any other traffic law or ordinance, provided such offense is a misdemeanor. (R. S. c. 133, § 2. 1945, c. 293, § 18. 1947, c. 334, § 1. 1957, c. 112.)

Effect of amendment. — The 1957 amendment added the above paragraph as the last paragraph of this section.

As the rest of the section was not changed by the amendment, it is not set out.

Sec. 2-A. Costs and fees in municipal and trial justice courts.—The following provisions shall apply to all trial justice courts and municipal courts:

I. Definitions and limitations: This section applies only to costs and fees arising from the criminal proceedings in trial justice courts and municipal courts. When any criminal case is appealed from such court to the superior court, the latter may tax and impose costs from its proceeding which may not include any fees or costs arising from the proceedings or arrest in the lower court.

Nothing in this section shall be interpreted to prohibit a court from filing a case upon payment of costs without a conviction.

Nothing in this section shall be interpreted to deprive a law enforcement officer of compensation for his services and expenses, but this section may shift the responsibility for providing such compensation.

The term "law enforcement officer" shall include, a state police officer, game warden, coastal warden, state liquor inspector, sheriff, deputy sheriff, municipal police officer, constable and any person whose duty it is to enforce any criminal law of this state by making arrests.

II. Respondent not to be sentenced to pay costs of court as such: A municipal court or trial justice court may not, in any criminal proceeding, sentence any respondent to pay costs of court as such, but may take the costs into consideration and include in any fine imposed a sum adequate to cover all or any part of them without reference to such costs and without taxing them, provided the maximum fine for the particular offense is not exceeded.

III. Reports and records of costs and fees: Such courts need not tax total costs in a criminal proceeding, but shall tax and itemize witness fees which are payable by the county as provided in this section. A law enforcement officer, when acting as the arresting officer, shall itemize his fees on the warrant return.

The court shall at the end of each month file with the monthly report to the county commissioners an itemized statement of all witness fees and to whom they are payable. The monthly report shall also indicate any other fees due from the county, the amount of any fines imposed and to whom they are payable. All such fines and fees shall be examined and corrected by the county commissioners and they shall order them paid by the county treasurer.

The court need not file a monthly report with the state, and the court need not file a bill of costs in any case for any reason.

IV. Distribution of fees and fines: All fines collected by the court shall be paid to the county monthly. All fines collected, unless the law governing the particular offense provides otherwise, shall accrue to the county where the court is located.

A deputy sheriff shall be paid by the county the fees as are provided under

section 150 of chapter 89 unless such deputy is paid a salary in lieu of such fees.

The county shall pay the municipality for reasonable expenses incurred by the latter's law enforcement officers for out of state travel involving a crime for which the law provides for extradition of the offender. The county, except in the case of a municipal ordinance violation, shall pay the municipality $4 each time one of the latter's law enforcement officers duly signs, as arresting officer, the return of a criminal warrant, issued by a trial justice or municipal court which is located within that county. Such $4 fee shall be paid within a reasonable time after the county commissioners have met, examined and corrected the monthly report of the court. Such fees shall be paid regardless of the final disposition of the case. Neither the county nor the court shall be required to pay any fee for the services or expense of any municipal law enforcement officer before such a court in any criminal proceeding as an aid, as a witness or in any other capacity.

The county, except in a case where any part of any fine collected would accrue to the state highway commission, shall pay the latter $4 each time a state police officer duly signs, as arresting officer, the return of a criminal warrant issued by a trial justice or municipal court which is located within the county. Such $4 fee shall be paid within a reasonable time after the county commissioners have met, examined and corrected the monthly report of the court. Such fee shall be paid regardless of the final disposition of the case. Neither the county nor the court shall be required to pay any fee for the services or expense of any state police officer, as an aid, a witness or in any other capacity.

Neither the court nor the county shall be required to pay any fee for the services or expense of any other law enforcement officer before such courts in any criminal proceeding as arresting officer, as an aid, as a witness or in any other capacity. (1957, c. 334, § 10.)

Sec. 6. Powers in juvenile cases; appeal. — A municipal court may place children under the age of 17 years under the supervision, care and control of a probation officer or an agent of the department of health and welfare or may order the child to be placed in a suitable family home subject to the supervision of a probation officer or the department of health and welfare or may commit such child to the department of health and welfare or make such other disposition as may seem best for the interests of the child and for the protection of the community including holding such child for the grand jury or commitment of such child to the Pownal state school upon certification of 2 physicians who are graduates of some legally organized medical college and have practiced 3 years in this state, that such child is mentally defective and that his or her mental age is not greater than ¾ of subject's life age nor under 3 years, or to the state school for boys or state school for girls; but no boy shall be committed to the state school for boys who is under the age of 11 years and no girl shall be committed to the state school for girls who is under the age of 9 years and no municipal court shall sentence a child under the age of 17 years to jail or prison; any child or his next friend or guardian may appeal to the superior court in the same county in the same manner as in criminal appeals, and the court may accept the personal recognizance of such child, next friend or guardian, and said superior court may either affirm such sentence or order of commitment or make such other disposition of the case as may be for the best interests of such child and for the peace and welfare of the community.

(1955, c. 211, § 2.)

Effect of amendment.—The 1955 amendment changed the first paragraph by increasing the minimum age for commitment to the state school for boys from nine to eleven years. As the second paragraph was not changed, it is not set out.

Trial Justices.

Sec. 8. Jurisdiction of trial justices; bank account for fines, etc.—Trial justices have jurisdiction of the offenses described in sections 1, 5, 6, 7, 9 and 11 of chapter 132, when the value of the property is not alleged to exceed $10. They may punish for the first offense by a fine of not more than $20 and by imprisonment for not more than 2 months; and on a 2nd conviction, by a fine of not more than $30 and by imprisonment for not more than 6 months.

They have jurisdiction of assaults and batteries, breaches of the peace, and violations of any statute or by-law of a town, village corporation or local health officer, when the offense is not of a high and aggravated nature, and of offenses and misdemeanors, jurisdiction of which is conferred by law, and of all attempts to commit offenses of which they now have jurisdiction by law. They may try and punish by a fine of not more than $20 or by imprisonment for not more than 30 days, except as otherwise provided for by law.

(1957, c. 334, § 11.)

Effect of amendment. — The 1957 amendment made the former sentence comprising the first paragraph into two sentences, increased the fine for first offense from $10 to $20 and the fine for second offense from $20 to $30 in such paragraph, and made the former sentence comprising the second paragraph into two sentences and increased the fine in such paragraph from $10 to $20.

As the third paragraph was not changed by the amendment, it is not set out.

Sec. 10. Persons arrested brought before trial justice in town where offense occurred.

Officer required to take prisoner before particular trial justice.

In accord with 1st paragraph in original. See State v. Nolan, 150 Me. 355, 111 A. (2d) 478.

And particular justice has jurisdiction of each offense.

In accord with original. See State v. Nolan, 150 Me. 355, 111 A. (2d) 478.

Ascertainment of "nearest" trial justice.—In determining the statutory meaning of "nearest," the contiguity of town lines is not the test. The ascertainment of the "nearest" trial justice is by measure over the shortest usual route of travel from the alleged locus of the offense to the locus which is the usual place of holding court of the trial justice. State v. Nolan, 150 Me. 355, 111 A. (2d) 478.

Omissions in record sufficient to arrest proceedings under section.—Failure of the record to show that there was no trial justice at Falmouth where the alleged offense occurred, or that the trial justice at Gray, before whom proceedings were brought, had a "usual place" of holding court "nearest to where the offense is alleged to have been committed" is alone sufficient to arrest the proceedings under this section. State v. Nolan, 150 Me. 355, 111 A. (2d) 478.

Appeals from Magistrates.

Sec. 22. Appeals within 5 days after decision or sentence.

The words "next superior court" have always been construed to mean the "next superior court at which criminal cases are cognizable." State v. Hoar, 152 Me. 139, 125 A. (2d) 918.

This section must be interpreted in connection with ch. 106, § 11 which provides for the trial terms of the superior court in the several counties and designates those terms at which criminal business may be transacted. State v. Hoar, 152 Me. 139, 125 A. (2d) 918.

Appeal recorded to wrong term.—In a case where the appeal is correctly taken by the appellant, but without his knowledge or participation the appeal is improperly recorded entirely as a result of error by the magistrate, the appeal should not subsequently be dismissed. But the responsibility for taking a proper and legal appeal rests upon the appellant and when he is charged with notice that his undesignated appeal is being recorded as to a wrong term, he has a duty to make the correct designation, and if he fails to do so the appeal is a nullity. State v. Hoar, 152 Me. 139, 125 A. (2d) 918.

Sec. 23. Copies sent to appellate court; failure to prosecute appeal.

Failure of trial justice to send copy of brief to superior court.—The fact that a brief (prepared by respondent's counsel, submitted to the trial justice, and read by the trial justice before his decision) was not forwarded by the trial justice to the superior court does not cause the superior court to lose jurisdiction. State v. Whitehead, 151 Me. 135, 116 A. (2d) 618.

Trial de novo upon appeal.—On appeal, the judgment of a lower court is vacated, and the case is removed to the appellate court and copy of record forwarded, and respondent is to be tried and judgment rendered de novo upon both law and fact. State v. Whitehead, 151 Me. 135, 116 A. (2d) 618.

Fees of Magistrates.

Sec. 26. Repealed by Public Laws 1957, c. 334, § 12.

Sec. 27. Repealed by Public Laws 1957, c. 334, § 12.

Sec. 28. Allowance of costs and fees by the county commissioners.—The county commissioners shall examine the monthly reports of trial justice and municipal courts, and the bills of costs of other courts, and correct same regardless of the final disposition of the case, and shall order all fees which are due to officers, witnesses and others to be paid out of the county treasury to the persons entitled thereto; but when one of the county commissioners is the person due to receive such fee, the superior court shall examine and correct such fee and shall in like manner order the same to be paid. Should one of the county commissioners be a magistrate then he shall abstain from examining, correcting and ordering payment of such fees or costs which come through his own court, and the remaining county commissioners shall have full power to do so. (R. S. c. 133, § 27. 1957, c. 334, § 13.)

Effect of amendment. — The 1957 amendment rewrote this section.

Sec. 29. Repealed by Public Laws 1957, c. 334, § 12.

Chapter 147.

Proceedings in Criminal Cases.

Section 33. Waiver of Indictment.

Waiver of Indictment.

Sec. 33. Waiver of indictment; petition; information; notification of rights; additional charges.—Any person charged with an offense not punishable by life imprisonment, who has been bound over to await the action of a grand jury in any superior court, and who desires to waive indictment and have a prompt arraignment upon waiver of said indictment, may file a petition in writing with the clerk of said court requesting prompt arraignment by information.

After the filing of such petition, and after the accused in open court, or before any justice of the superior court in vacation, has been advised of the nature of the offense and of his rights, said accused may waive in open court prosecution by indictment, which waiver shall be recorded. Thereupon the county attorney or the assistant county attorney may proceed against the accused person by information.

The information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the county