

**CHAPTER 105**

**EXAMINATION, ARRAIGNMENT AND RECOGNIZANCE**

**SUBCHAPTER 1**

**GENERAL PROVISIONS**

**§801. Examination of persons arrested**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §27 (RP).

**§802. Discharge on recognizance in county of arrest**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §27 (RP).

**§803. Adjournment of examination on recognizance or commitment**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 19, §5 (AMD). PL 1965, c. 356, §27 (RP).

**§804. Failure to appear**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §27 (RP).

**§805. Scope of examination**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §27 (RP).

**§806. Complaint adjudged frivolous or malicious; appeal**

If following an examination it appears that an offense has not been committed or that there is not probable cause to charge the accused, on motion of the defendant the judge shall render judgment whether or not the complaint is frivolous or malicious. If the judge judges the complaint to be frivolous or malicious, the judge shall order the complainant to pay the costs of prosecution and shall issue execution in favor of the county and against the complainant for that sum and may receive and pay over those costs to the county treasurer for the use of the county and, if the costs are not paid, the judge shall return the execution to the county commissioners, for the use of the county. The complainant has the same right of appeal as in civil cases. [RR 2023, c. 2, Pt. D, §51 (COR).]

SECTION HISTORY

PL 1965, c. 356, §28 (AMD). RR 2023, c. 2, Pt. D, §51 (COR).

**§807. Prisoner not asked how to be tried; dilatory pleas verified****(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §29 (RP).

**§808. Prisoners; bail or discharge if no indictment****(REPEALED)**

SECTION HISTORY

PL 1987, c. 758, §12 (RP).

**§809. Standing mute****(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §30 (RP).

**§810. Copy of indictment furnished; assignment of counsel**

**1. Copy of indictment furnished.** The clerk shall, without charge, furnish to any person indicted for a crime a copy of the indictment unless the indictment is sealed.

[PL 2023, c. 485, §1 (NEW).]

**2. Assignment of counsel before arraignment.** Before arraignment, competent defense counsel must be assigned by the court unless waived by the accused after being fully advised of the accused's rights by the court if the court determines that the accused is indigent and the accused is charged with murder or a Class A, B or C crime, except when the accused has not had an initial appearance on the complaint.

[PL 2023, c. 485, §1 (NEW).]

**3. Assignment of counsel at arraignment.** Competent defense counsel must be assigned by the court unless waived by the accused after being fully advised of the accused's rights by the court if the court determines that the accused is indigent and that:

A. There is a risk upon conviction that the accused may be sentenced to a term of imprisonment; [PL 2023, c. 485, §1 (NEW).]

B. The accused has a physical, mental or emotional disability preventing the accused from fairly participating in the criminal proceeding without counsel; or [PL 2023, c. 485, §1 (NEW).]

C. The accused is a noncitizen for whom the criminal proceeding poses a risk of adverse immigration consequences. [PL 2023, c. 485, §1 (NEW).]

[PL 2023, c. 485, §1 (NEW).]

SECTION HISTORY

PL 1965, c. 352, §§1,2 (AMD). PL 1965, c. 356, §31 (AMD). PL 1971, c. 544, §50 (AMD). P&amp;SL 1975, c. 147, Pt. C, §14 (AMD). PL 2023, c. 485, §1 (RPR).

**§811. Waiver of indictment; petition; information; notification of rights; additional charges; arraignment in vacation****(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §32 (RP).

**§812. Negotiated pleas**

**1. Legislative intent and findings.** The Legislature finds that there is citizen dissatisfaction with plea bargaining that has resulted in some criticism of the criminal justice process. The Legislature further finds that part of the dissatisfaction is caused because victims of crimes and law enforcement officers who respond to those crimes have no subsequent contact with the cases as they proceed through the courts for judicial disposition. Victims and law enforcement officers are many times not informed by prosecutors of plea agreements that are to be submitted to the court for approval or rejection under existing Maine Rules of Unified Criminal Procedure. It is the intent of this section to alleviate these expressions of citizen dissatisfaction and to promote greater understanding by prosecutors of citizens' valid concerns. This is most likely to be accomplished by citizens and law enforcement officers being informed of the results of plea negotiations before they are submitted to the courts. This notification will in no way affect the authority of the court to accept, reject or modify the terms of the plea agreement.

[PL 2015, c. 431, §8 (AMD).]

**2. Notification to victims and law enforcement officers.** Whenever practicable, before submitting a negotiated plea to the court, the attorney for the State shall make a good faith effort to inform the relevant law enforcement officers of the details of the plea agreement reached in any prosecution where the defendant was originally charged with murder, a Class A, B or C crime or a violation of Title 17-A, chapter 9, 11, 12 or 13 and, with respect to victims, shall comply with Title 17-A, section 2102, subsection 1, paragraphs A and B relative to informing victims of the details of and their right to comment on a plea agreement.

[PL 2019, c. 113, Pt. C, §30 (AMD).]

#### SECTION HISTORY

PL 1981, c. 685 (NEW). PL 1995, c. 680, §1 (AMD). PL 2007, c. 475, §4 (AMD). PL 2015, c. 431, §8 (AMD). PL 2019, c. 113, Pt. C, §30 (AMD).

#### **§813. State's attorney present at certain proceedings**

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 795, §1 (NEW). PL 1983, c. 862, §43 (RPR). PL 1987, c. 758, §13 (RP).

#### **§814. Opportunity for State to present relevant information**

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 795, §1 (NEW). PL 1983, c. 862, §44 (AMD). PL 1987, c. 758, §14 (RP).

#### **§815. Communication between prosecutor and unrepresented defendant in criminal prosecutions**

**1. Requirements for communication.** To ensure that all waivers of the right to counsel are made knowingly, voluntarily and intelligently, a prosecutor may not communicate with an unrepresented defendant concerning the facts, circumstances, merits or disposition of a pending criminal charge against the defendant unless:

- A. The defendant has been informed by the court of the defendant's right to counsel, including court-appointed counsel if the defendant is indigent; [PL 2021, c. 668, §1 (AMD).]
- B. The court has provided to the defendant a statement of:
  - (1) The substance of the charges against the defendant;
  - (2) The defendant's right to retain counsel, to request the assignment of counsel and to be allowed a reasonable time and opportunity to consult counsel before entering a plea;

- (3) The defendant's right to remain silent and that the defendant is not required to make a statement and that any statement made by the defendant may be used against the defendant;
- (4) The maximum possible sentence and any applicable mandatory minimum sentence; and
- (5) The defendant's right to trial by jury; and [PL 2021, c. 480, §1 (NEW).]

C. [PL 2023, c. 340, §1 (RP).]

D. Either the defendant initiates the communication or the communication takes place at a dispositional conference and is required by Rule 18(b) of the Maine Rules of Unified Criminal Procedure. [PL 2023, c. 340, §2 (NEW).]

[PL 2023, c. 340, §§1, 2 (AMD).]

**2. Exception.** Notwithstanding subsection 1, a prosecutor may communicate with an unrepresented defendant at any time to:

A. Offer the defendant an opportunity to participate in a diversion program or explain steps that the defendant can take, including obtaining reinstatement of the defendant's driver's license or registration or engaging in a certain amount and type of community service, the successful completion of which would result in the prosecutor not prosecuting the charge or charges against the defendant or recommending a dismissal of or filing of the charge or charges. A defendant's failure to successfully complete a diversion program or to successfully undertake any other steps that the prosecutor informed the defendant of under this subsection may not form the basis for imposing any term of imprisonment, suspended or unsuspended, on that defendant if that defendant is later convicted of the charge or charges that were the subject of the discussion; [PL 2023, c. 340, §3 (AMD).]

B. Notify the defendant that a pending criminal matter is being dismissed; [PL 2023, c. 340, §3 (AMD).]

C. Notify the defendant in writing of a plea offer; or [PL 2023, c. 340, §3 (NEW).]

D. Request the defendant's position on a motion to continue or a motion to correct a typographical error in a document filed with the court. [PL 2023, c. 340, §3 (NEW).]

[PL 2023, c. 340, §3 (AMD).]

**3. Application.** This section does not apply to:

A. The obligation of the State to provide discovery or other information pursuant to court order, pursuant to rules adopted by the Supreme Judicial Court or as otherwise required by the Constitution of Maine or the United States Constitution; or [PL 2021, c. 668, §1 (NEW).]

B. Notice by the prosecutor to a person that no charge is being filed. [PL 2021, c. 668, §1 (NEW).]

[PL 2021, c. 668, §1 (NEW).]

#### SECTION HISTORY

PL 2021, c. 480, §1 (NEW). PL 2021, c. 668, §1 (AMD). PL 2023, c. 340, §§1-3 (AMD).

## SUBCHAPTER 2

### COMMITMENT OR BINDING OVER

#### §851. Sureties to make statement of property

(REPEALED)

#### SECTION HISTORY

PL 1965, c. 356, §33 (AMD). PL 1983, c. 795, §2 (AMD). PL 1983, c. 862, §45 (AMD). PL 1987, c. 758, §15 (RP).

**§852. Responsibility of sureties**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §34 (AMD). PL 1987, c. 758, §16 (RP).

**§853. Judge to recognize material witnesses, or commit them**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §35 (RP).

**§854. Recognizance for minor**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §35 (RP).

**§855. Bail after commitment**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §36 (AMD). PL 1987, c. 758, §17 (RP).

**§856. Return of examinations and recognizances**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §37 (RP).

**SUBCHAPTER 3**

**DISMISSAL**

**§891. Dismissal on satisfaction of private injury**

**1. General rule.** When a person is charged with a Class D or Class E crime, or is the subject of a juvenile petition alleging a juvenile crime that would constitute a Class D or Class E crime if the juvenile involved were an adult, for which the party injured has a remedy by civil action, if the injured party appears before the court and in writing acknowledges satisfaction for the injury, the court, on payment of all costs, may dismiss the charge.

[PL 2007, c. 536, §1 (NEW).]

**2. Exceptions.** This section does not apply to the crime or juvenile crime of refusing to submit to arrest or detention as defined by Title 17-A, section 751-B, to any crime or juvenile crime in which the alleged victim is a family or household member as defined in Title 19-A, chapter 103 or to any juvenile who has previously been adjudicated of a juvenile crime or who has previously obtained relief under this section with respect to a juvenile petition.

[RR 2023, c. 2, Pt. A, §24 (COR).]

SECTION HISTORY

PL 1965, c. 356, §38 (AMD). PL 1979, c. 663, §102 (AMD). PL 1989, c. 862, §2 (AMD). PL 1995, c. 694, §D22 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1999, c. 52, §1 (AMD). PL 2007, c. 277, §1 (AMD). PL 2007, c. 536, §1 (RPR). PL 2021, c. 647, Pt. B, §6 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF). RR 2023, c. 2, Pt. A, §24 (COR).

**§892. Bar to civil action**

An order of dismissal entered pursuant to section 891 bars all further remedy by civil action for such an injury. [PL 2007, c. 536, §2 (RPR).]

SECTION HISTORY

PL 1965, c. 356, §39 (AMD). RR 2007, c. 1, §7 (COR). PL 2007, c. 536, §2 (RPR).

**SUBCHAPTER 4**

**REMEDIES ON DEFAULT; DISCHARGE OF BAIL**

**§931. Forfeiture of bail; enforcement**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §40 (RPR). PL 1987, c. 758, §18 (RP).

**§932. Bail exonerated by surrender before default upon recognizance**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§933. Court may remit penalty; sureties may surrender principal in court**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§934. Liquor cases excepted**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§935. Action on any recognizance dismissed**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§936. Unessential omissions and defects in recognizances not fatal**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§937. Personal recognizance and cash bail**

**(REPEALED)**

## SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§938. Surrender before default****(REPEALED)**

## SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§939. Court may order deposit forfeited****(REPEALED)**

## SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§940. Surrender after default****(REPEALED)**

## SECTION HISTORY

PL 1965, c. 356, §41 (RP).

**§941. Private claims paid out of forfeited bail**

When the penalty of a bond to prosecute an appeal is paid to the clerk of the court or county treasurer, the court may award to any person therefrom the same sum that the person would have been entitled to receive from the penalty for the offense, if paid on conviction and not on forfeiture of bail. [RR 2023, c. 2, Pt. D, §52 (COR).]

## SECTION HISTORY

PL 1965, c. 356, §42 (AMD). RR 2023, c. 2, Pt. D, §52 (COR).

**§942. Release on personal recognizance or bond****(REPEALED)**

## SECTION HISTORY

PL 1973, c. 760 (NEW). PL 1975, c. 143, §§1-3 (AMD). PL 1977, c. 696, §167 (AMD). PL 1979, c. 257, §2 (AMD). PL 1979, c. 663, §§103,104 (AMD). PL 1983, c. 429, §§1,2 (AMD). PL 1983, c. 795, §§3,4 (AMD). PL 1983, c. 862, §46 (AMD). PL 1987, c. 758, §19 (RP).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through October 15, 2024. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.