

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

Date: (Filing No. H-)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 306, L.D. 380, Bill, “An Act To Enhance Enforcement of Civil Orders of Arrest”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 14 MRSA §3135, as amended by PL 2009, c. 205, §§1 and 2, is further amended to read:

§3135. Civil order of arrest

A civil order of arrest issued under section 3134, subsection 1, or section 3136, must direct the sheriff to arrest the individual named in the order and bring the individual to a hearing any day the court is in session. In the case of a nonindividual debtor, the civil order of arrest must be issued for the arrest of any officer, director or managing agent of the debtor or other agent appointed by the debtor to accept service and who was served with the disclosure subpoena.

After a civil order of arrest has been issued, the sheriff shall cause the ~~individual debtor~~ named in the order to be arrested and shall deliver the ~~individual debtor~~ without undue delay to the division of the District Court designated in the civil order of arrest or obtain from the debtor a personal recognizance bond to appear in court at the specified date and time. ~~Should the debtor fail to appear at that time a warrant may issue for the debtor's arrest.~~ The sheriff may take such steps determined necessary for the sheriff's safety or the safety of others then present, including searching the debtor for weapons, if the sheriff has a reasonable suspicion that the debtor has a weapon, and handcuffing the debtor if that is necessary to transport the debtor to the court or to cause the debtor to remain peaceably at the court. Upon arrival at the court, the sheriff shall notify the clerk or bailiff that the debtor is present and may release the debtor into the custody of the bailiff. The sheriff shall instruct the debtor that the debtor must wait at the court until released by the court or clerk. Upon release of the debtor into the custody of the bailiff, the sheriff need not remain with the debtor at the court. ~~A debtor who fails to appear for the disclosure hearing after being released upon the debtor's personal recognizance commits a Class E crime.~~

COMMITTEE AMENDMENT

1 After the judgment debtor is brought to the court, the clerk shall promptly notify the
2 judgment creditor or the judgment creditor's attorney of record in person or by telephone
3 that the presence of one of them is required for a hearing. If a disclosure or contempt
4 hearing cannot be held that day due to the inability of the judgment creditor or the
5 judgment creditor's attorney to appear or due to the absence of the judge or the inability
6 of the court to hear the matter because of other business, the court or clerk shall release
7 the debtor upon the debtor's personal recognizance for appearance on a date certain. ~~A~~
8 ~~debtor who fails to appear for the disclosure or contempt hearing after being released~~
9 ~~upon the debtor's personal recognizance commits a Class E crime.~~

10 If the debtor fails to appear at the time and place specified in a personal recognizance
11 bond obtained by the sheriff, clerk or court, and upon request of the judgment creditor,
12 the court shall order the Department of Labor to provide the judgment creditor with the
13 name and address of the current or most recent employer of the debtor, if any, together
14 with the date the employer last reported wage information concerning the debtor and
15 issue an additional civil order of arrest pursuant to section 3134 directing the sheriff to
16 cause the debtor named in the order to be arrested and delivered to the District Court
17 without obtaining from the debtor a personal recognizance bond.

18 An order directed to the Department of Labor under this section may be served by the
19 judgment creditor by ordinary mail, accompanied by a reasonable fee set by the
20 Department of Labor. The Department of Labor shall respond to the judgment creditor
21 within 20 days after receipt of the court order.

22 A debtor admitted to personal recognizance bond under this section shall date and
23 sign the bond and provide the following information: date of birth, hair color, eye color,
24 height, weight, gender, race, telephone number, name of employer, address of employer
25 and days and hours of employment.

26 A debtor who fails to appear for a disclosure or contempt hearing after being released
27 upon the debtor's personal recognizance commits a Class E crime.

28 Unless the judgment debtor shows good cause for failure to appear after being duly
29 served with a disclosure subpoena under section 3123, a contempt subpoena under
30 section 3136 or an order to appear and disclose under Title 19-A, section 2361, the debtor
31 must be ordered to pay the costs of issuing and serving the civil order for arrest. The
32 costs of issuing and serving the civil order for arrest are \$25 plus mileage at a rate of 42¢
33 per mile. The fee payable to sheriffs and their deputies for civil orders for arrest is
34 governed by Title 30-A, section 421, subsection 6.'

35 SUMMARY

36 This amendment replaces the bill, removing the provisions permitting the court to
37 issue a bench warrant and instead providing alternative relief.

38 This amendment provides alternative relief if a debtor fails to appear for a hearing
39 after having given a personal recognizance bond to do so. The alternative relief consists
40 of an order to the Department of Labor to provide the judgment creditor with the name
41 and address of the debtor's employer, or a further civil order of arrest that does not permit
42 the sheriff to obtain a personal recognizance bond from the debtor, or both. The
43 Department of Labor may charge a reasonable fee for providing the information pursuant

1 to the court order. The amendment also specifies how an order to the Department of
2 Labor is served and the information required in the personal recognizance bond that a
3 debtor may sign.