
By Mr. Murphy of Peabody, petition of John E. Murphy for establishing part ownership in real property on the basis of tenancy by the entirety as being sufficient to constitute surety for bail. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Eight.

AN ACT TO ESTABLISH A PART OWNERSHIP IN REAL PROPERTY ON THE BASIS OF A TENANCY BY THE ENTIRETY AS BEING SUFFICIENT TO CONSTITUTE HIM SURETY FOR BAIL.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 276 of the General Laws is hereby amended by
2 striking out section 57, as most recently amended by section 33
3 of chapter 319 of the acts of 1953, and inserting in place thereof
4 the following section: —

5 *Section 57.* A justice of the supreme judicial or superior
6 court, a clerk of courts or the clerk of the superior court for
7 criminal business in the county of Suffolk, a standing or special
8 commissioner appointed by either of said courts or, in the county
9 of Suffolk, by the sheriff of said county with the approval of the
10 superior court, a justice or clerk of a district court or a master
11 in chancery, upon application of a prisoner or witness held under
12 arrest or committed, either with or without a warrant, or held
13 in the custody of an officer under a mittimus, may inquire into
14 the case and admit such prisoner or witness to bail; and may
15 admit to bail any person committed for not finding sureties to
16 recognize for him. All persons authorized to take bail under this
17 section shall be governed by the rules established by the supreme
18 judicial or superior court. No person offering himself as surety
19 shall be deemed to be insufficient if he deposits money of an
20 amount equal to the amount of the bail required of him in such

21 recognizance, or a bank book of a savings bank or of the savings
22 department of a trust company or national bank, doing business
23 in the commonwealth, properly assigned to the clerk with whom
24 the same is or is to be deposited, and his successors, and satis-
25 tory to the person so authorized to take bail, or deposits non-
26 registered bonds of the United States or of the commonwealth
27 or of any county, city or town within the commonwealth equal
28 at their face value to the amount of the bail required of him in
29 such recognizance, or makes offer of a part ownership to real
30 property his title to which is on the basis of a tenancy by the
31 entirety of a value equal to the amount of the bail required of
32 him in such recognizance. The sheriff of Suffolk county may,
33 with the approval of the superior court, appoint standing or
34 special commissioners to take bail to a number not exceeding
35 twenty and may, with like approval, remove them.

36 Before the amount of bail of a prisoner charged with an
37 offence punishable by imprisonment for more than one year is
38 fixed in court, the court shall obtain from its probation officer
39 all available information relative to prior criminal prosecutions,
40 if any, of the prisoner and the disposition of each of such prosecu-
41 tions. If the offence with which such a prisoner is charged is a
42 violation of any provision of sections twenty-two to twenty-four,
43 inclusive, of chapter two hundred and sixty-five or section
44 thirty-four or thirty-five of chapter two hundred and seventy-
45 two, and it appears from such information or otherwise that he
46 had been previously prosecuted for a violation of any such
47 provision, the court shall, before the amount of bail is fixed,
48 obtain from the department of mental health a report containing
49 all information in its possession relative to the prisoner, par-
50 ticularly with respect to any mental disease or defect with which
51 he may have been afflicted; and said department shall furnish
52 any such report to the court promptly upon its request.

53 No person arrested for violating any provision of section
54 thirty-three or thirty-five of chapter fifty-six shall be admitted
55 to bail unless there is deposited not less than five hundred
56 dollars in cash, or there is offered real estate of the fair market
57 value of not less than one thousand dollars, over and above all
58 encumbrances, as security.