

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

H.P. 1029 - L.D. 1400

An Act To Address Certain Aspects of Bail

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 15 MRSA §1003, sub-§3-A** is enacted to read:

**3-A. Crime involving domestic violence.** "Crime involving domestic violence" means:

A. As defined in Title 17-A, a crime of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct; and

B. A violation of a protective order under Title 19-A, section 4011, the alleged victim of which is a family or household member as defined in Title 19-A, section 4002, subsection 4.

**Sec. 2. 15 MRSA §1023, sub-§4**, as repealed and replaced by PL 2001, c. 686, Pt. A, §1, is amended to read:

**4. Limitations on authority.** A bail commissioner may not:

A. Set preconviction bail for a defendant confined in jail or held under arrest by virtue of any order issued by a court in which bail has not been authorized;

B. Change bail set by a court; or

C. In a case involving domestic violence, set preconviction bail for a defendant before making a good faith effort to obtain from the arresting officer, the ~~district attorney~~ responsible prosecutorial office, a jail employee or other law enforcement officer:

- (1) A brief history of the alleged abuser;
- (2) The relationship of the parties;
- (3) The name, address, phone number and date of birth of the victim; and
- (4) Existing conditions of protection from abuse orders, conditions of bail and conditions of probation;

D. Set preconviction bail for a violation of condition of release pursuant to section 1092, except as provided in section 1092, subsection 4; or

E. Set preconviction bail using a condition of release not included in every order for pretrial release without specifying a court date within 8 weeks of the date of the bail order.

**Sec. 3. 15 MRSA §1092, sub-§4** is enacted to read:

**4. Limitations on authority of bail commissioner to set preconviction bail.** A court may, but a bail commissioner may not, set bail for a defendant granted preconviction bail who has been arrested for an alleged violation of this section if:

A. The condition of release alleged to be violated relates to new criminal conduct for a crime classified as Class C or above or for a Class D or Class E crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12;

B. The underlying crime for which preconviction bail was granted is classified as Class C or above; or

C. The underlying crime for which preconviction bail was granted is a crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12.

If a bail commissioner does not have sufficient information to determine whether the violation of the condition of release meets the criteria set forth under this subsection, the bail commissioner may not set bail on the violation of the condition of release.

**Sec. 4. 15 MRSA §1095, sub-§2**, as amended by PL 1997, c. 543, §22, is further amended to read:

**2. Arrest.** A Prior to the filing of a motion to revoke a defendant's preconviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State, may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. ~~If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new charged crimes in accordance with this chapter.~~ A defendant under arrest pursuant to ~~subsection 1 or this subsection~~ section must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should be modified or whether the defendant should be committed without bail pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

**Sec. 5. 15 MRSA §1098, sub-§2**, as enacted by PL 1995, c. 356, §19, is amended to read:

**2. Arrest.** ~~A~~ Prior to the filing of a motion to revoke a defendant's post-conviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State, may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, violated a condition of post-conviction bail or been charged with a crime allegedly committed while released on post-conviction bail. ~~If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new crimes in accordance with this chapter.~~ A defendant under arrest pursuant to this ~~subsection~~ section must be brought before a judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing post-conviction bail order should be modified or the defendant should be committed without bail pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

**Sec. 6. 17-A MRSA §15, sub-§1, ¶A,** as amended by PL 2009, c. 142, §3, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 19-A, section 4002, subsection 4;
- (5-B) Domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct;
- (6) Theft as defined in section 357, when the value of the services is \$1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (9) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer;

- (10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;
- (11) Theft involving a detention under Title 17, section 3521;
- (12) Harassment, as set forth in section 506-A;
- (13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;
- (14) A violation of a sex offender registration provision under Title 34-A, chapter 15;
- (15) A violation of a requirement of administrative release when requested by the attorney for the State;
- (16) A violation of a condition of supervised release for sex offenders when requested by a probation officer;
- (17) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State;
- (18) A violation of a condition of release as provided in Title 15, section 3203-A, subsection 9;
- (19) A violation of a condition of supervised community confinement granted pursuant to Title 34-A, section 3036-A when requested by a probation officer;
- (20) A violation of a condition of placement on community reintegration status granted pursuant to Title 34-A, sections 3810 and 4112 when requested by a juvenile community corrections officer; ~~or~~
- (21) A violation of a condition of furlough or other rehabilitative program authorized under Title 34-A, section 3035 when requested by a probation officer or juvenile community corrections officer; ~~and~~
- (22) A violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State;
- (23) Failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A; or
- (24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; and

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor