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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 812, L.D. 1134, "An Act To Amend the Maine Bail Code Regarding Certain Conditions of Release and the Maine Criminal Code Regarding Warrantless Arrests"

Amend the bill by striking out the title and substituting the following:

'An Act To Amend the Maine Bail Code Regarding Certain Conditions of Release'

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

'Sec. 1. 15 MRSA §1092, sub-§1, as amended by PL 2005, c. 449, §2, is further amended to read:

1. Violation of condition of release. A defendant who has been granted preconviction or postconviction bail and who, in fact, violates a condition of release is guilty of:

A. A Class E crime; or if the condition is specified in section 1026, subsection 3, paragraph A, subparagraph (4), (5), (8), (13) or (19).

B. A Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more and the condition of release violated is one specified in section 1026, subsection 3, paragraph A, subparagraph (5), (8), (10-A) or (13).

Sec. 2. 15 MRSA §1092, sub-§1-A is enacted to read:

1-A. Violation of condition of release for certain crimes. A defendant who has been granted preconviction bail and who, in fact, violates a condition of release is guilty of a Class E crime if that defendant is charged with:

A. A crime against a family or household member, as defined in Title 19-A, section 4002, subsection 4;

B. A sexual assault under Title 17-A, chapter 11; or

C. A violation of a protective order, as specified in section 321, subsection 6; Title 5, section 4659; Title 17-A, section 506-B; or Title 19-A, section 4011.

COMMITTEE AMENDMENT

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Sec. 3. 15 MRSA §1092, sub-§2, as enacted by PL 2003, c. 452, Pt. H, §3 and affected by Pt. X, §2, is amended to read:

2. Affirmative defense. It is an affirmative defense to prosecution under ~~subsection~~ subsections 1 and 1-A that the violation resulted from just cause.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the majority report. It replaces the bill. It amends the consequences for violating conditions of release that are imposed when preconviction bail is granted.

This amendment repeals the Class C crime in current law for violations of some conditions of release, limiting the criminal penalty for certain violations of conditions of release to a Class E crime. Violation of the following conditions of release, if imposed, remain a Class E crime:

- 1. Abiding by specified restrictions on personal associations, place of abode or travel;
- 2. Avoiding all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;
- 3. Refraining from possessing a firearm or other dangerous weapon;
- 4. Returning to custody for specified hours following release for employment, schooling or other limited purposes; and
- 5. Participating in an electronic monitoring program, if available.

This amendment also provides that a defendant who is charged with a specific list of crimes against a family or household member, sexual assault or violations of protective orders and violates preconviction bail conditions commits a Class E crime. The bill proposed a violation to be a Class C crime in some instances. This amendment retains from the bill the affirmative defense applicable to this Class E crime.

The amendment strikes out all proposed changes concerning warrantless arrests.

FISCAL NOTE REQUIRED
(See attached)