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An Act To Amend the Maine Bail Code To Protect Victims of Domestic Violence

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

Sec. 1. 15 MRSA §1023, sub-§4, ¶C, as amended by PL 2011, c. 341, §2, is repealed.

Sec. 2. 15 MRSA §1023, sub-§4, ¶C-1 is enacted to read:

C-1. Set preconviction bail in a case involving domestic violence:

Sec. 3. 15 MRSA §1026, sub-§3, ¶A, as repealed and replaced by PL 2007, c. 518, §3, is amended to read:

A. If, after consideration of the factors listed in subsection 4, the judicial officer determines that the release described in subsection 2-A will not reasonably ensure the appearance of the defendant at the time and place required, will not reasonably ensure that the defendant will refrain from any new criminal conduct, will not reasonably ensure the integrity of the judicial process or will not reasonably ensure the safety of others in the community, the judicial officer shall order the pretrial release of the defendant subject to the least restrictive further condition or combination of conditions that the judicial officer determines will reasonably ensure the appearance of the defendant at the time and place required, will reasonably ensure that the defendant will refrain from any new criminal conduct, will reasonably ensure the integrity of the judicial process and will reasonably ensure the safety of others in the community. These conditions may include that the defendant:

(1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure the appearance of the defendant at the time and place required, that the defendant will refrain from any new criminal conduct, the integrity of the judicial process and the safety of others in the community. When it is feasible to do so, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may interview the designated person or organization to ensure satisfaction of both the willingness and ability required. The designated person or organization shall agree to notify immediately the judicial officer of any violation of release by the defendant;

(2) Maintain employment or, if unemployed, actively seek employment;

(3) Maintain or commence an educational program;

(4) Abide by specified restrictions on personal associations, place of abode or travel;

(5) Avoid 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;

(6) Report on a regular basis to a designated law enforcement agency or other governmental agency;

(7) Comply with a specified curfew;

(7-A) If the defendant has been charged with a crime involving domestic violence, submit to supervision by an electronic monitoring system under the supervision of an agency designated by the judicial officer that:

(i) Immediately notifies law enforcement officers or other monitors, the victim and other persons designated by the court to be at risk of harm of any breach by the defendant of a court-ordered restriction to remain within certain physical boundaries;

(ii) Has a loud alarm that can be activated to warn the victim or other person designated by the court to be at risk of harm of the presence of the defendant in an area from which the defendant has been barred; and

(iii) Permits the cost of electronic monitoring to be assessed as court costs or ordered by the court to be paid directly by the defendant as a condition of bail;

(8) Refrain from possessing a firearm or other dangerous weapon;

(9) Refrain from use or excessive use of alcohol and from any use of drugs;

(10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;

(10-A) Enter and remain in a long-term residential facility for the treatment of substance abuse;

(11) Execute an agreement to forfeit, in the event of noncompliance, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal

conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;

(12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community;

(13) Return to custody for specified hours following release for employment, schooling or other limited purposes;

(14) Report on a regular basis to the defendant's attorney;

(15) Notify the court of any changes of address or employment;

(16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;

(17) Inform any law enforcement officer of the defendant's condition of release if the defendant is subsequently arrested or summonsed for new criminal conduct; and

(18) Satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community.

Sec. 4. 15 MRSA §1026, sub-§4-A is enacted to read:

4-A. Considerations in charges for crimes involving domestic violence.

Notwithstanding the other provisions of this section, a defendant charged with a crime involving domestic violence may not be released unless a criminal history of the defendant has been completed and reviewed by the judicial officer.

SUMMARY

This bill amends the Maine Bail Code to provide protection for the victim of a crime involving domestic violence or persons likely to be harmed by a defendant in a domestic violence prosecution by providing that bail may be determined only by judges, not bail commissioners, and by requiring the judge to review and consider the defendant's criminal history. The bill also provides that electronic monitoring

may be a condition of bail for the defendant charged with a crime involving domestic violence and that the defendant may be ordered to pay the cost of that monitoring.