1                                                                          L.D. 1134

2        Date:                                                    (Filing No. H-        )

3                                        **JUDICIARY**

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

5                                    **STATE OF MAINE**

6                           **HOUSE OF REPRESENTATIVES**

7                                **130TH LEGISLATURE**

8                              **FIRST SPECIAL SESSION**

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

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

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

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

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

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

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

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

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

26       **1-A. Violation of condition of release for certain crimes.**  A defendant who has been
27       granted preconviction bail and who, in fact, violates a condition of release is guilty of a
28       Class E crime if that defendant is charged with:

29       A.  A crime against a family or household member, as defined in Title 19-A, section
30       4002, subsection 4;

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

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

## *COMMITTEE AMENDMENT*

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

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

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

7  **SUMMARY**

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

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

14  1. Abiding by specified restrictions on personal associations, place of abode or travel;

15  2. Avoiding all contact with a victim of the alleged crime, a potential witness regarding
16  the alleged crime or with any other family or household members of the victim or the
17  defendant or to contact those individuals only at certain times or under certain conditions;

18  3. Refraining from possessing a firearm or other dangerous weapon;

19  4. Returning to custody for specified hours following release for employment,
20  schooling or other limited purposes; and

21  5. Participating in an electronic monitoring program, if available.

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

27  The amendment strikes out all proposed changes concerning warrantless arrests.

28  **FISCAL NOTE REQUIRED**
29  **(See attached)**

*COMMITTEE AMENDMENT*