

CLAC MEMORANDUM/TESTIMONY OPPOSED
LD 179, An Act to Amend the Bail Code to
Eliminate the Class E Crime of Violation of Condition of Release

TO: Senator Anne Beebe-Center
Representative Tavis Hasenfus
Joint Standing Committee on Criminal Justice and Public Safety

FR: Criminal Law Advisory Commission (CLAC)
c/o laura.yustak@maine.gov

RE: LD 179, An Act to Amend the Bail Code to Eliminate the Class E Crime of Violation of
Condition of Release

DA: February 3, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony opposing LD 179.

Conditions of release are orders issued by a judicial officer. Ideally, such conditions seek to ensure the appearance of a defendant when required, ensure that the defendant refrains from new criminal conduct, ensure the integrity of the judicial system, and ensure the safety of others in the community, including victims and witnesses. 15 M.R.S. §§ 1002; 1003(1), (4-A), (5); 1026(2-A); 1051(2). Judges and Bail Commissioners take many factors regarding the alleged crime and individual defendant into consideration when imposing conditions. 15 M.R.S. §1026(4) (preconviction bail).

If all Class E violation of condition of release crimes are eliminated, many such conditions, including conditions of no contact designed to protect victims and witnesses, would be largely unenforceable, or subject only to delayed enforcement (for example, through the forfeiture process for cash or secured bail or pursuant to a motion to revoke bail altogether, which require additional proceedings). The crime of violation of condition of release is also taken into consideration when calculating the ODARA (Ontario Domestic Assault Risk Assessment) score, calculated to identify potentially high-risk defendants alleged to have committed new domestic violence assaults or crimes involving threatening with weapons.

CLAC recognizes that violation of some bail conditions may present as minor or “technical” in nature. Policymakers could take a more targeted approach by identifying which specific bail conditions, in light of their function or purpose, could be enforced by a motion to revoke or forfeit bail rather than by new criminal charges. Such alternate enforcement mechanisms are not available in every case; for example, a financial condition (secured or “cash bail”) may not be imposed on certain Class E crimes. 15 MRS § 1026(3)(B-1).

*CLAC is an advisory body established by the Legislature. 17-A M.R.S. §§ 1351-1357. It consists of 9 members appointed by the Attorney General. Our current members include defense

attorneys, prosecutors, Maine Bar Counsel, and a retired practitioner with experience as defense counsel, prosecutor and in court administration. In addition, three sitting judges and one retired practitioner, appointed by the Chief Justice of the Supreme Judicial Court, and, by statute, the Co-Chairs of the Legislature's Committee on Criminal Justice and Public Safety, serve as consultants. The Supreme Judicial Court's Criminal Process Manager serves as liaison from the Court to CLAC. CLAC advises the Legislature on matters relating to crimes in the Criminal Code and in other Titles, the Bail and Juvenile Codes, and with respect to other statutes related to criminal justice processes.