

Good morning Senator Beebe-Center, Representative Hasenfus, and honorable members of the Criminal Justice and Public Safety Committee. Thank you for your time and attention regarding this important issue.

I am submitting testimony to oppose LD179 - An Act to Amend the Maine Bail Code to Eliminate the Class E Crime of Violation of Conditions of Release. While I don't intend to be contentious, I believe a more accurate title for this bill would be "An Act to Further Compromise the Safety of Maine's People." That is essentially what you will be doing if you choose to pass this bill.

I am a police officer in Wiscasset, Maine, with over six years of experience in patrol and more than five years in corrections. I have witnessed the bail process from both perspectives and its impact on our community.

For centuries, bail has been a means of ensuring accountability and safeguarding the safety of Maine citizens. When a person is arrested, they typically have the option to be released on bail pending their court date. This release requires them to pay a specified amount of money and agree to abide by the conditions of their bail, including appearing at their scheduled court date. This process allows for due process and prevents individuals from being incarcerated for extended periods without a conviction, aligning with the protections provided by the 8th Amendment.

In past years, the bail process functioned effectively when used as intended. However, since I began my career in law enforcement, I have witnessed significant changes, not all of which have been beneficial. Previously, when someone was released on bail, it served as a deterrent against new criminal behavior. They understood that if they violated their bail conditions, they would be detained until a new bail was set, and they would forfeit the money originally posted to the courts. They valued their freedom and their financial investment, despite their poor choices.

This process has since changed. Now, in most cases, when someone violates their bail conditions, a new bail can be established almost immediately by a bail commissioner. I have observed this has created a revolving door in our system. I have made arrests where the person was released faster than I could complete my paperwork.

In recent years, nearly every arrest I have made has involved a bail of personal recognizance (PR) or an unsecured bail. This means the individual either pays a

small fee to the bail commissioner or no fee at all, without putting any money up with the court. This includes cases involving new charges for violating the original bail conditions. As a result, the accountability factor has significantly decreased.

Despite the new process hindering law enforcement in our attempts to protect the people of Maine, LD179 will go to even greater lengths to accomplish that goal. Ultimately, we run the risk of losing the only tool the courts provide to hold individuals accountable for their bail conditions and to ensure they appear at their scheduled court dates. If there is no deterrent or incentive to comply with one's bail conditions, then what is the purpose of having those conditions at all?

Some supporters of this bill argue that it addresses the shortage of defense attorneys in the state of Maine. While I believe in the right to legal representation, I also believe that eliminating laws due to a shortage of lawyers will have detrimental effects. It may temporarily reduce the number of arrests that need defense, but the resulting lack of accountability will only increase that caseload in the long run, potentially involving more serious crimes.

Instead of jeopardizing the safety of Maine citizens by removing laws, we should be focusing on ways to recruit and retain quality attorneys to bridge the gap. Reducing accountability is not the solution. If we follow that line of reasoning, one could argue that we should not create or enforce laws at all due to the risk of overloading the court system. We know that this is not a viable option; a society without laws would lead to chaos. We need the accountability that comes with laws, or else we are left with meaningless words on paper.

Some supporters also claim that it is sufficient for a judge to have the option to revoke a person's bail. They argue that it is redundant for law enforcement to make the initial arrest for a violation. However, as pointed out, the courts already have an enormous caseload. Relying solely on a judge to handle this process could lead to delays and months before a decision is made on the bail violation. In the meantime, victims of crimes and the public remain at risk until that decision is reached. We should focus on streamlining the court process rather than finding ways to undermine it.

One example of the detrimental effect LD179 could have is in cases of domestic violence. Domestic Violence Assault is classified as a misdemeanor unless it meets certain criteria. For instance, an individual arrested for assaulting their significant other is typically placed on bail conditions that prohibit contact with the victim.

This no-contact provision ensures the victim remains safe while the case is processed in court.

Contacting the victim is not a crime in itself. Under LD179, law enforcement would not be allowed to take action if an offender violates bail by contacting their victim. Instead, the victim would have to wait for a judge to hear the case and make a ruling. During this time, the victim remains at risk.

We have witnessed 40 homicides related to domestic violence in the past three years. I, for one, do not want to contribute to an increase in that number because we removed a crucial tool from law enforcement. While it is essential to protect people's rights, we should prioritize the safety of victims. I hope the committee will agree.

Another area of concern is the safety of Maine's roads. When an individual is arrested for operating under the influence of alcohol, they are typically placed on bail conditions that prohibit the use or possession of alcohol. However, under LD179, if someone with this bail condition is found to possess or use alcohol, law enforcement would no longer be able to arrest them for the violation. Instead, the case would have to be presented to a judge before any action could be taken.

This creates the potential for that individual to drive a vehicle and injure or kill an innocent person. According to the Federal Bureau of Investigations, the average impaired driver has driven under the influence more than **80** times before their first arrest. This staggering statistic shows that someone on bail for operating under the influence is likely to re-offend if there is no fear of accountability.

According to the National Highway Traffic Safety Administration, over **13,000** people are killed every year by impaired drivers. In Maine, impaired drivers are responsible for over **50** fatalities each year. They also cause over **10,000** motor vehicle accidents that result in injuries to more than **3,500** people. I have experienced this tragedy firsthand. I lost my older sister, her husband, and their unborn child to an intoxicated driver on Christmas Eve 2008. No family deserves to receive such devastating news, especially on what should be a joyous day. I am sure the committee will agree that we do not want to see those numbers increase as a result of your decisions today.

These are just two examples of the potentially detrimental effects that LD179 could cause. In the interest of the committee's time today, I will not provide further examples, but I believe this illustrates the cause-and-effect relationship clearly.

There has not been enough research or time invested into this bill to demonstrate that the desired outcome will justify the cost to the people of Maine. I urge you to vote against this bill so that we can continue to keep Maine's citizens as safe as possible in partnership with those of us serving on the front lines.

Maine Law Enforcement is recognized as some of the best in the country. The officers I have met and worked with take great pride in upholding the Constitution and all that it entails. We are committed to treating Maine citizens with respect, even when we are in situations where an arrest must be made.

We are granted discretionary powers and do not take that responsibility lightly. Just because we can make an arrest does not mean we always will. We carefully consider the totality of circumstances when making that decision. LD179 represents a move toward reducing that discretion. We will no longer be trusted to rely on our training and expertise when it comes to making arrest decisions related to bail violations.

As a society, I believe we should continually evaluate our processes and strive to improve them, but that does not mean we should rush into decisions without first understanding the potential outcomes. Thank you for listening and for giving this matter the extensive consideration it deserves.

Respectfully,
Jonathan Barnes
Wiscasset Police Association