



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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Senator Anne Beebe-Center, Chair
Representative Tavis Hasenfus, Chair
Committee on Criminal Justice and Public Safety
5 State House Station, Room 436
Augusta, ME 04333

RE: LD 1817: An Act to Implement the Recommendation of the Maine Commission on Public Defense Services to Eliminate the Crime of Violation of Condition of Release

Dear Senator Beebe-Center, Representative Hasenfus, and Members of the Committee on Criminal Justice and Public Safety:

The Maine Association of Criminal Defense Lawyers is a non-profit organization that has nearly 300 member attorneys who practice criminal defense across the state. Since 1992, MACDL has advocated for its members and the people we are fortunate to represent in courtrooms throughout Maine and at the State House.

MACDL presents this testimony **in support of LD 1817.**

This bill, as presented by the Maine Commission on Public Defense Services, comes before this Committee because MCPDS—unlike prosecutors or the judiciary—has absolutely no control over the onslaught of cases its attorneys are appointed to represent indigent clients on, and this particular crime of Violations of Conditions of Release represents more than 8,000 charges per year—and is unnecessary to address the harms it seeks to remedy.

Compared to numbers pre-COVID, in late 2019, Maine currently is holding on to 6,500 more cases total—3,000 felony matters and 3,500 misdemeanor matters. The vast majority of these cases, including nearly all felony matters, require the appointment of counsel. Even without this persistent backlog weighing on the backs of our defense attorneys—and derailing the lives of our clients—the criminal legal system in Maine simply processes and holds on to far more cases than is necessary to ensure public safety. The sheer volume of VCR cases only proves this further.

As you can see from the attached figures generated by the Maine Judicial Branch, VCR (Class E) is the most charged crime in Maine and has been for years—nearly 9,000 Class E VCR charges in 2024 alone and almost 600 Class C VCR charges that same year. The gap between the number of Class E VCRs charged and the next most charged crime (OUI, misdemeanor theft, misdemeanor drug possession) continues to

increase—meaning that VCRs are being charged at higher rates over the past few years as compared to other crimes.

Class E VCR charges make up nearly 20 percent—or one out of every five—misdemeanor criminal charges in Maine as of last year. (We should note the difference between “charges” and “cases”—the number of charges (which can be one, two, three, or more within a certain case) are the numbers to which we are referring.) Currently, one out of every four cases—whether misdemeanors or felonies—includes at least one charge of Violation of Conditions of Release, Class E. That is an astonishing number.

Approximately 22 percent of these cases—so, for 2024, 1,785 cases statewide—were “stand-alone” VCR Class E matters—so violations of bail that did not include a new criminal charge allegation, but rather, violations regarding curfew, drinking, being under the influence of drugs, not obtaining a pretrial contract, etc.

Almost 1,800 misdemeanor cases statewide for VCR is just unnecessary, particularly when if a person is not complying with bail conditions and there exists no set of conditions that would ensure their compliance, the State’s prosecutors can and often do file motions for the revocation of pre-conviction bail. That is a remedy that does not create new cases or require the appointment of counsel on such cases.

Maine is one of only six states across this country that has a stand-alone crime of Violation of Conditions of Release. No one has convinced me to this day that we should be such an outlier on such a low-level crime.

The elimination of the crime of Violation of Conditions of Release would free up lawyers to handle other cases and would significantly reduce the number of individuals who are currently unrepresented while not removing the other avenues available to the State and to courts to hold defendants accountable for violating conditions of bail. We don’t need this crime in this state to ensure public safety. It is duplicative of protections and processes already in place. In a time of unprecedented crisis in the lack of representation for the indigent, we cannot afford to continue to prosecute thousands of people when we have better ways of addressing their alleged behavior.

We urge this Committee to vote **ought to pass** on LD 1817.

Thank you for your consideration, for your attention to this important matter, and for allowing me to present this testimony to you all today.

Sincerely,

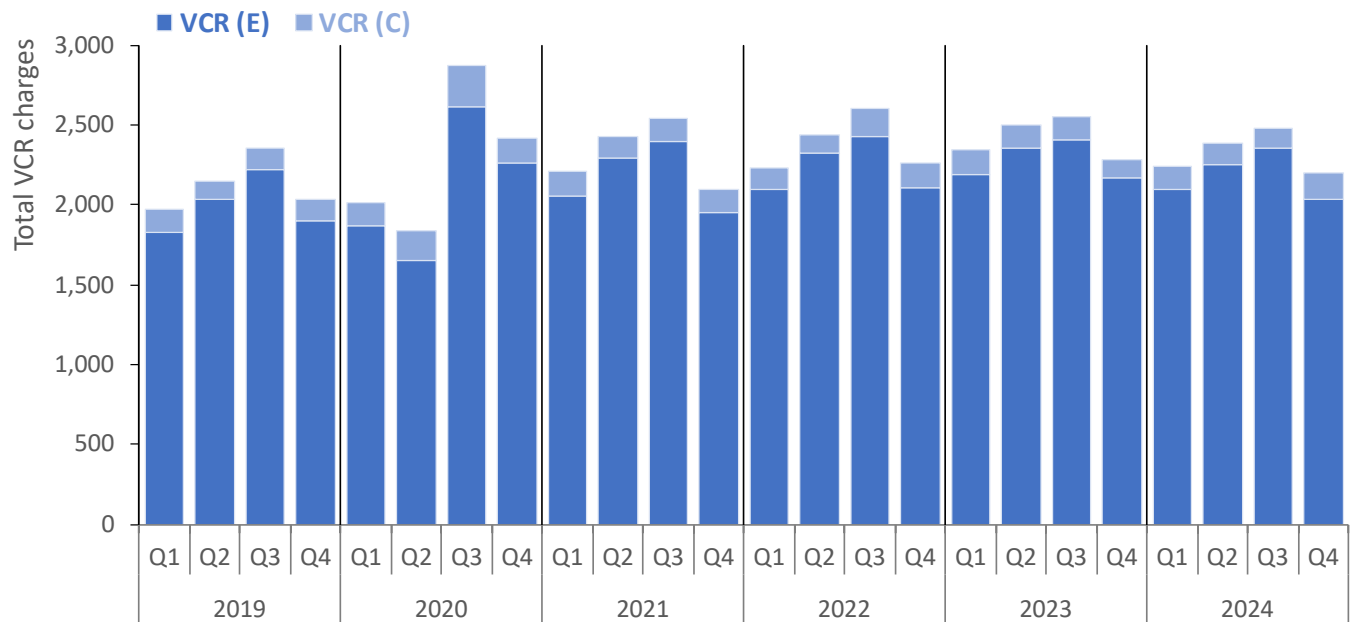


Tina H. Nadeau, Esq.
MACDL Executive Director

Violating Condition of Release Filing Trends, 2019 - 2024

Figure 1 below shows the number of Violating Condition of Release (VCR) charges filed each quarter between 2019 and 2024, categorized by **misdemeanor Class E VCR** (15 M.R.S. § 1092(1)(A)) and **felony Class C VCR** (15 M.R.S. § 1092(1)(B)). Counts for the entire calendar year are included in the table beneath the chart. *Note that these are counts of individual charges filed, and do not represent a count of unique cases or unique persons charged with VCR.* A case may have multiple VCR charges, and an individual may be charged in multiple cases during a given year.

Figure 1. Violating Condition of Release Charges Filed Each Quarter, 2019 - 2024



	2019	2020	2021	2022	2023	2024
VCR (E)	7,986	8,397	8,694	8,957	9,122	8,733
VCR (C)	511	748	580	573	567	573
Total VCR	8,497	9,145	9,274	9,530	9,689	9,306

Violating Condition of Release (E) has been the most frequently charged offense since 2008. Since 2020, the gap between the number of VCR (E) charges and the next most frequently charged offense has also increased.

Figure 2. Five Most Frequently Charged Offenses, 2019 - 2024

2019	Violating Condition of Release (E) 7,985 OUI (Alcohol) (D) 4,143 Operating While License Suspended or Revoked (E) 3,789 Theft by Unauthorized Taking or Transfer (E) 3,285 Domestic Violence Assault (D) 2,575	2022	Violating Condition of Release (E) 8,956 OUI (Alcohol) (D) 3,370 Operating While License Suspended or Revoked (E) 3,282 Theft by Unauthorized Taking or Transfer (E) 3,280 Domestic Violence Assault (D) 2,328
2020	Violating Condition of Release (E) 8,396 Operating While License Suspended or Revoked (E) 3,235 OUI (Alcohol) (D) 2,965 Theft by Unauthorized Taking or Transfer (E) 2,730 Domestic Violence Assault (D) 2,474	2023	Violating Condition of Release (E) 9,122 Theft by Unauthorized Taking or Transfer (E) 3,264 OUI (Alcohol) (D) 3,215 Operating While License Suspended or Revoked (E) 2,783 Unlawful Possession of Scheduled Drug (D) 2,510
2021	Violating Condition of Release (E) 8,692 OUI (Alcohol) (D) 3,106 Operating While License Suspended or Revoked (E) 2,535 Theft by Unauthorized Taking or Transfer (E) 2,386 Domestic Violence Assault (D) 2,381	2024	Violating Condition of Release (E) 8,732 Theft by Unauthorized Taking or Transfer (E) 3,236 OUI (Alcohol) (D) 2,972 Unlawful Possession of Scheduled Drug (D) 2,283 Domestic Violence Assault (D) 2,272

While criminal filings as a whole have experienced a decreasing trend in recent years, the number of VCR charges filed has slightly increased during the same period.

Figure 3. VCR (E) as a Proportion of Total Misdemeanor Charges

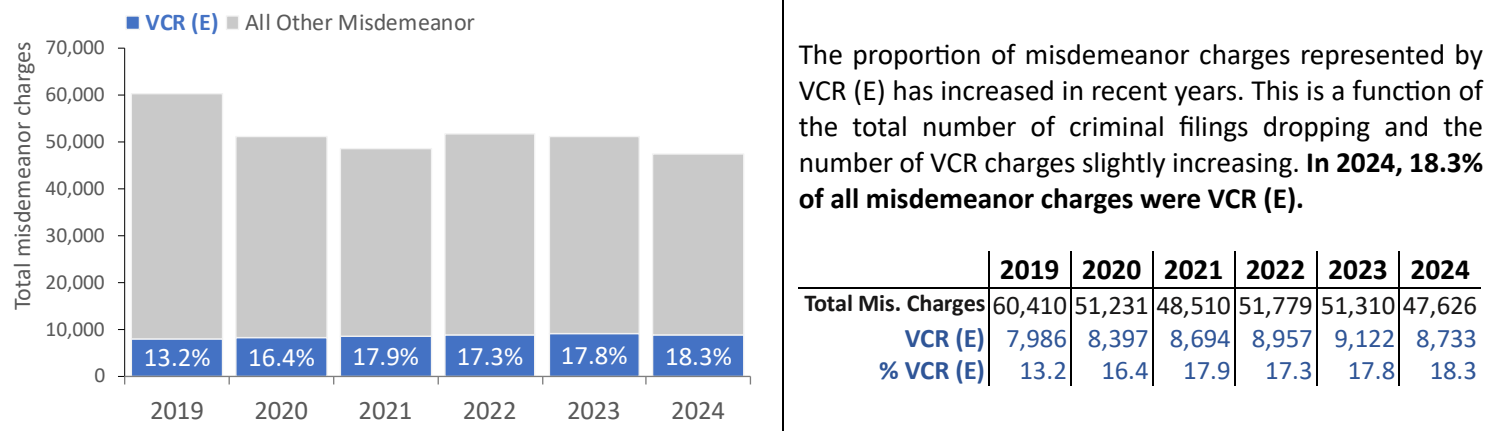


Figure 4. Proportion of All Criminal Cases Having At Least One Count of VCR (E)

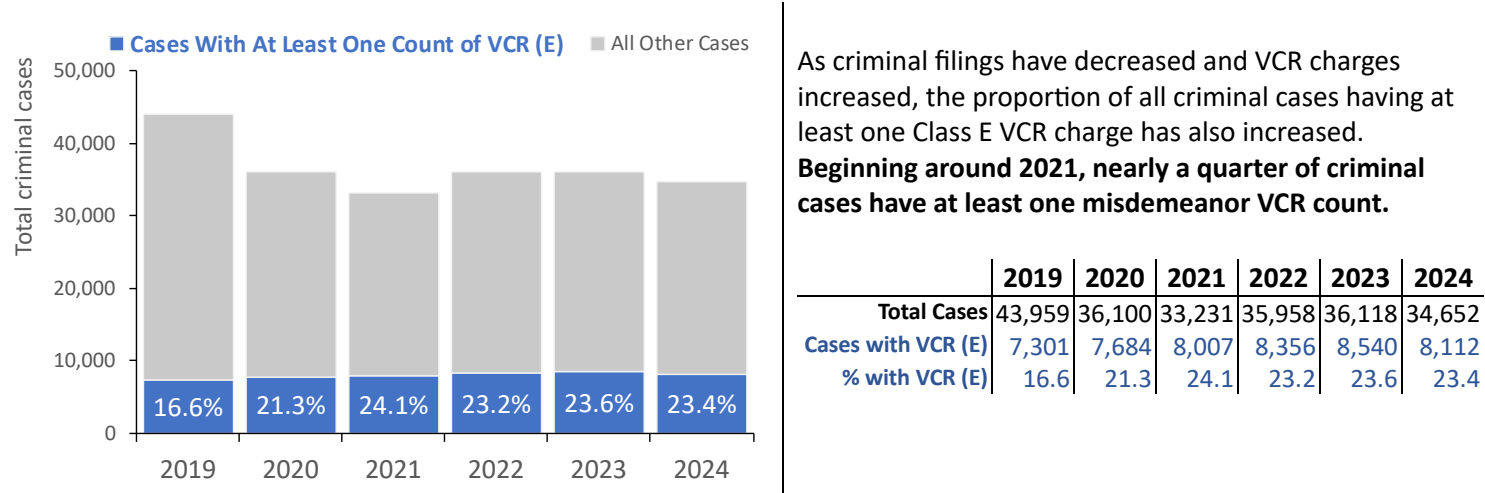


Figure 5. Total Number of Cases Filed with a VCR (E) Charge

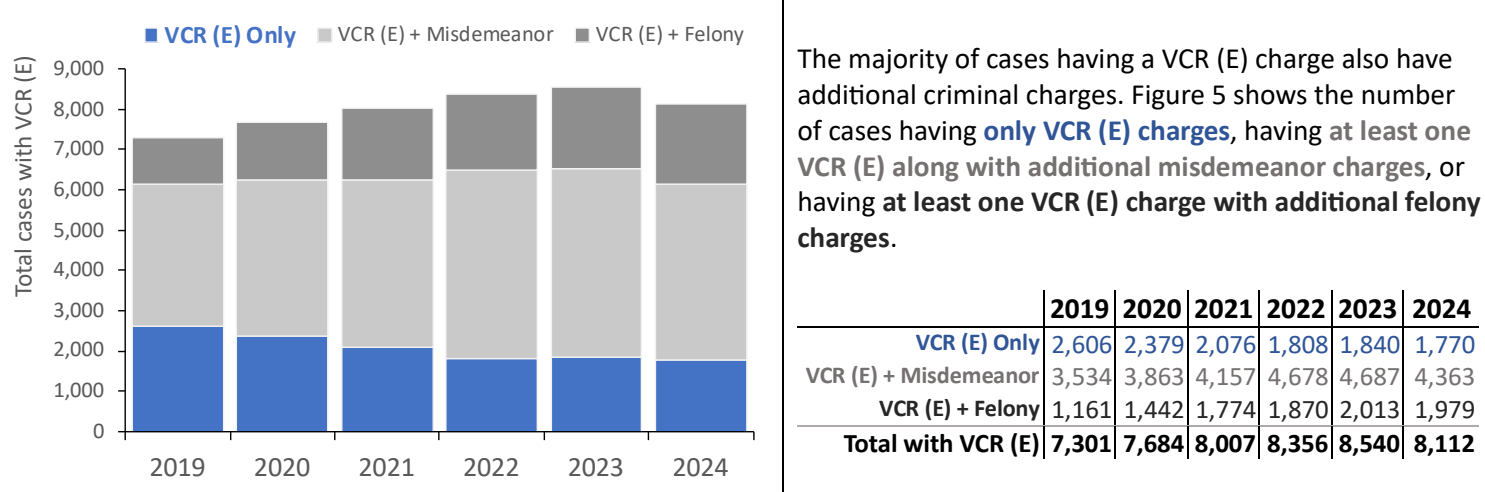


Figure 6. Proportion of VCR (E) Cases with Additional Charges

