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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,

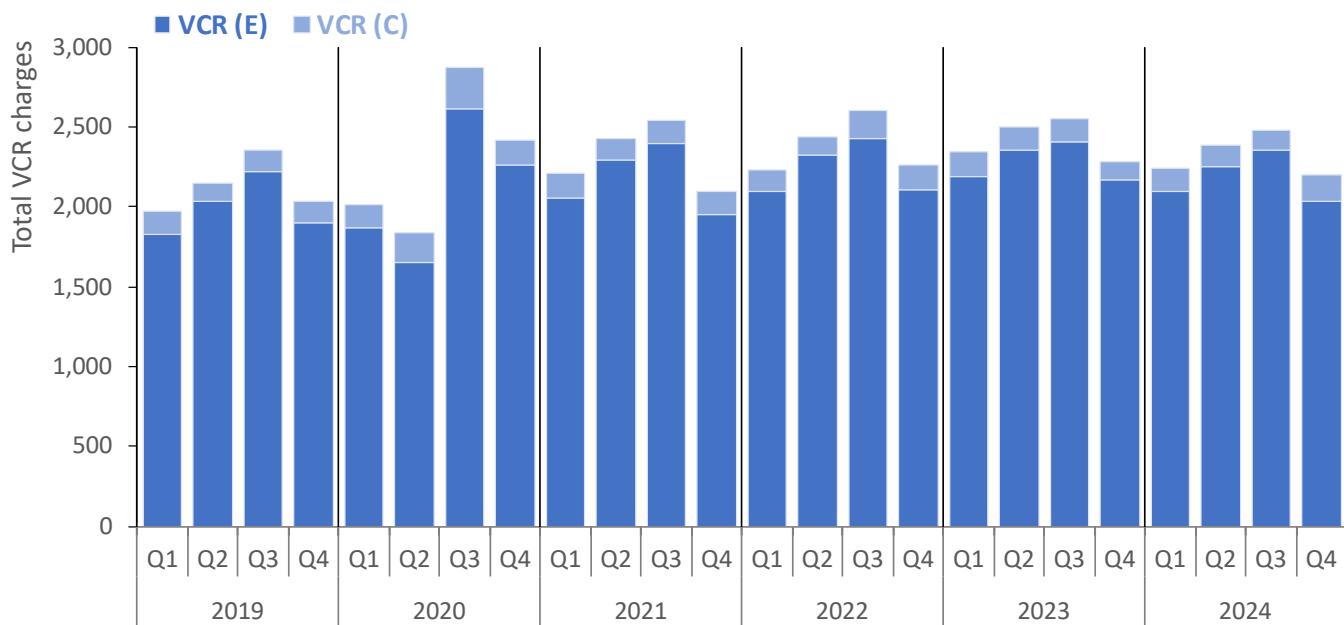


Tina H. Nadeau, Esq.
MACDL Executive Director

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.

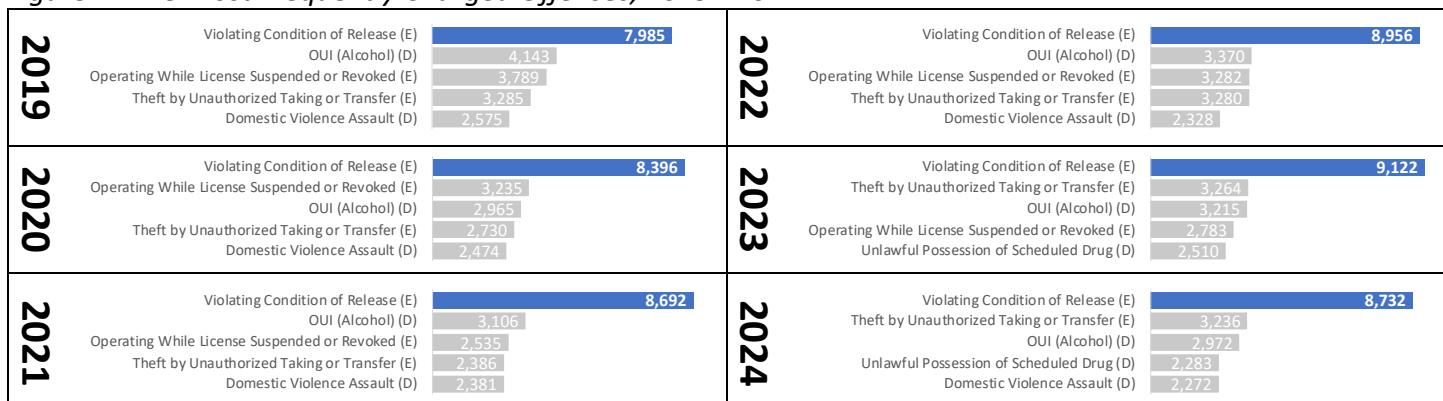
Figure 1. Violating Condition of Release Charges Filed Each Quarter, 2019 - 2024



	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

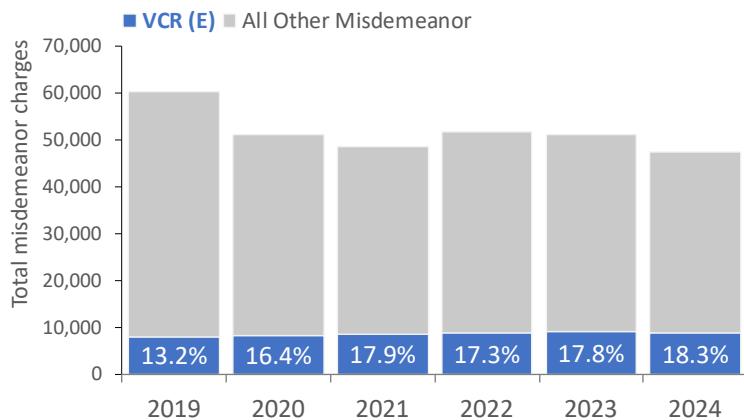
Violating Condition of Release (E) has been the most frequently charged offense since 2008. Since 2020, the gap between the number of VCR (E) charges and the next most frequently charged offense has also increased.

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



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.

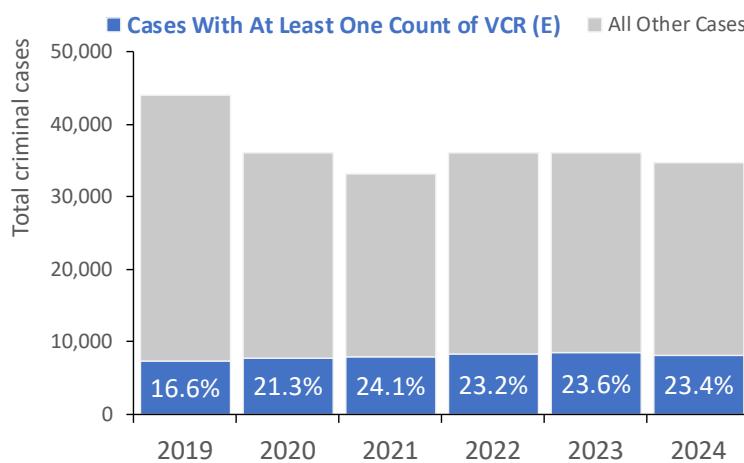
Figure 3. VCR (E) as a Proportion of Total Misdemeanor Charges



The proportion of misdemeanor charges represented by VCR (E) has increased in recent years. This is a function of the total number of criminal filings dropping and the number of VCR charges slightly increasing. **In 2024, 18.3% of all misdemeanor charges were VCR (E).**

	2019	2020	2021	2022	2023	2024
Total Mis. Charges	60,410	51,231	48,510	51,779	51,310	47,626
VCR (E)	7,986	8,397	8,694	8,957	9,122	8,733
% VCR (E)	13.2	16.4	17.9	17.3	17.8	18.3

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

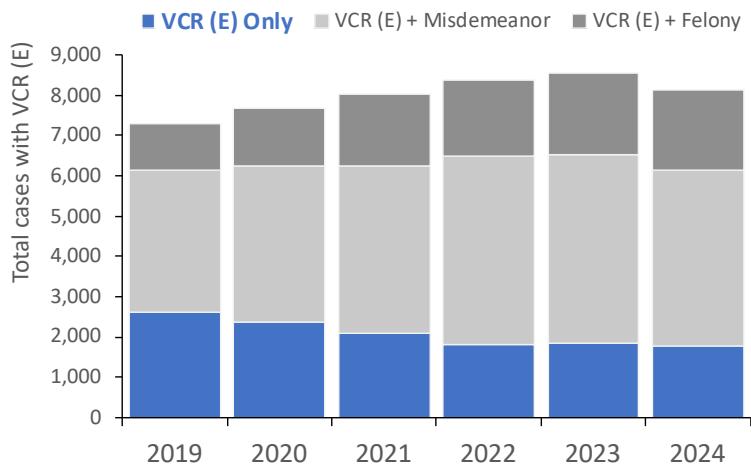


As criminal filings have decreased and VCR charges increased, the proportion of all criminal cases having at least one Class E VCR charge has also increased.

Beginning around 2021, nearly a quarter of criminal cases have at least one misdemeanor VCR count.

	2019	2020	2021	2022	2023	2024
Total Cases	43,959	36,100	33,231	35,958	36,118	34,652
Cases with VCR (E)	7,301	7,684	8,007	8,356	8,540	8,112
% with VCR (E)	16.6	21.3	24.1	23.2	23.6	23.4

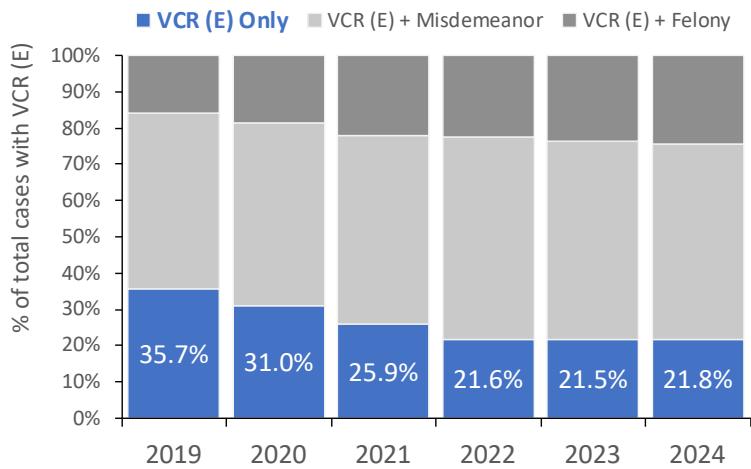
Figure 5. Total Number of Cases Filed with a VCR (E) Charge



The majority of cases having a VCR (E) charge also have additional criminal charges. Figure 5 shows the number of cases having **only VCR (E) charges**, having at least one **VCR (E) along with additional misdemeanor charges**, or having **at least one VCR (E) charge with additional felony charges**.

	2019	2020	2021	2022	2023	2024
VCR (E) Only	2,606	2,379	2,076	1,808	1,840	1,770
VCR (E) + Misdemeanor	3,534	3,863	4,157	4,678	4,687	4,363
VCR (E) + Felony	1,161	1,442	1,774	1,870	2,013	1,979
Total with VCR (E)	7,301	7,684	8,007	8,356	8,540	8,112

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



Since 2019, the proportion of **VCR Only** cases has decreased. In 2019, around 36% of VCR cases were **VCR Only** cases (i.e. the only charges in the case were Class E VCR). This figure has decreased to 22% of VCR cases in 2024. Additionally, the proportion of VCR cases with additional felony charges has increased during the same period.

	2019	2020	2021	2022	2023	2024
% VCR (E) Only	35.7	31.0	25.9	21.6	21.5	21.8
% VCR (E) + Mis.	48.4	50.3	51.9	56.0	54.9	53.8
% VCR (E) + Felony	15.9	18.8	22.2	22.4	23.6	24.4