



# Administrative Office of the Courts

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## **Judicial Branch testimony neither for nor against 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:**

Senator Beebe-Center, Representative Hasenfus, members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Amanda Doherty and I represent the Judicial Branch. I would like to provide some brief testimony regarding this bill.

While the Judicial Branch does not take a position on the bill, we would like to make a few comments about procedure.

This bill proposes to eliminate, in its entirety, the crime of Violation of Conditions of Release under Title 15 §1092 (1). This means that there would no longer be a criminal charge for any Defendant who violates a judicial officer's bail order, including when a no contact provision is violated.

If a person cannot be charged with a Violation of Conditions of Release, the judicial officer's bail order may still be enforced through a discretionary Motion to Revoke Bail filed by the attorney for the State with the court during business hours. This initiates a distinct court process that begins with the court either sending the Defendant a notice to appear to answer the motion, or issuing a warrant that would bring a Defendant into custody for an initial appearance. The warrant could be issued with a notation of "no bail" until they are brought before a judge or justice, or it could have a cash bail amount associated with it, allowing a person to be released prior to appearing in court.

Additionally, Title 15 §1092(4) outlines limitations on Bail Commissioner authority when a person is on bail. At present, Bail Commissioners cannot set bail for anyone charged with violation of conditions of release – regardless of the nature of the violation - if that person is on bail for any felony, or any domestic violence offense (misdemeanor or felony), or sexual offense (misdemeanor or felony). Bail Commissioners also cannot set bail for anyone charged with Violation of Conditions of Release and also commits a new crime that is any felony, a domestic violence offense (misdemeanor or felony), or a sexual offense (misdemeanor or felony). Instead, the Defendant must wait to be seen by a judge to have bail set. Thus, this change would enable all Defendants who are on bail and are charged or arrested for a new offense to have new bail set.

In summary, in the circumstances outlined above, if the crime of Violation of Conditions of Release were repealed, certain Defendants could be eligible for release immediately. This is in contrast to current law, which would require certain Defendant to remain in custody until they appear in front of a judge or justice.

Thank you for your time.