



State of Maine Judicial Branch  
Administrative Office of the Courts

Amanda J. Doherty, Esq.  
Manager, Criminal Process  
Telephone: 207-213-2857

**Judicial Branch neither for nor against LD 179**  
*An Act to Amend the Maine Bail Code to  
Eliminate the Class E Crime of Violation of Condition of Release*

Senator Beebe-Center, Representative Hasenfus, and 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 testimony regarding this bill:

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

This bill proposes to eliminate the class E crime of Violation of Conditions of Release under Title 15 §1092 (1)(A). The result would be that the only Violation of Conditions of Release charge that would remain is a class C crime. The Class C (felony) VCR can only be charged in the following circumstances:

- (1) Defendant is on bail for a felony (Class A, B, or C crimes), AND
- (2) Defendant must violate one of two specific bail conditions:
  - (i) Contact with a victim of the alleged crime, a potential witness regarding the alleged crime, or with any other family or household members of the victim or the Defendant, or to contact those individuals only at certain times or under certain conditions;
  - (ii) Possessing a firearm or other dangerous weapon

This means that if someone is on bail for any misdemeanor (Class D or E crimes), including misdemeanor crimes with an alleged victim with whom the defendant is ordered to have no contact, there would no longer be a criminal charge for any Defendant who violates a judicial officer's bail order. This would also mean that if someone is on bail for a felony (Class A, B, or C crimes), but violates a judicial officer's bail in a manner other than the two conditions outlined above, there would be no charge available.

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, unless they are on bail for a felony AND violate one of the two specific conditions referenced above.

In summary, in the circumstances outlined above, if the class E 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.