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TESTIMONY OF MICHAEL KEBEDE, ESQ.  
LD 179 – Ought To Pass

**An Act to Amend the Maine Bail Code to Eliminate the  
Class E Crime of Violation of Condition of Release**

Joint Standing Committee on Criminal Justice & Public Safety  
February 3, 2025

Senator Beebe-Center, Representative Hasenfus and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede, and I am a Policy Director at the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to support this bill.

The ACLU of Maine has worked for years to reform our state’s pretrial system. A consistent theme in our advocacy has been the myriad harms caused by the money bail system. Even one day behind bars can lead to the loss of jobs, child custody, or a bed in a recovery house. You and your predecessors have also heard us discuss how criminal records can hinder future success for those who are arrested and detained. This bill addresses some of these concerns.

If enacted, LD 179 would remove the provision of Maine law that makes some violations of conditions of release a Class E misdemeanor, the lowest level of crime. Under current law, violating some bail conditions is itself a new crime. This rule is out of step with most of the country. Maine is one of a handful of states where a violation of a condition of pretrial release (VCR) other than a failure to appear in court is itself a new crime.<sup>1</sup> In other states, if a person violates a bail condition and the district attorney feels the violation was egregious, they can file a motion to revoke bail and address the violation, without adding an additional criminal charge to a person’s record. In Maine, not only are violations of conditions of release a new crime, but some violations are felony crimes.

Not only is Maine out of step with the rest of the country, but we are also out of step with recommendations from our own official bail study. In 2015, the Legislature established Maine Pretrial Justice Reform Task Force (“Task Force”). The Task Force included more than two-dozen representatives from the judiciary, law enforcement agencies, victim advocate groups, Wabanaki

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<sup>1</sup> National Conference of State Legislatures, *Pretrial Release Violations & Bail Forfeiture Report*, June 28, 2018, <https://www.ncsl.org/civil-and-criminal-justice/pretrial-release-violations-bail-forfeiture>.

## Maine

nations, civil rights and civil liberties organizations, criminal defense lawyers, bail commissioners, and still others. The Task Force Report, published in 2019, revealed that up to 40% of VCRs are the only charged crime for an arrested individual.<sup>2</sup> That means that 60% of VCRs are accompanied by another charge and those bailees would still be able to be arrested and detained for their new criminal activity.<sup>3</sup> It is crucial to remember that even if the Class E crime of VCR ceased to exist, district attorneys would still have the power to charge new crimes. All this bill does is reduce instances where a VCR charge is tacked on to prior charges.<sup>3</sup>

Moreover, our courts are overwhelmed. There's an enormous backlog of cases, and a lack of lawyers to defend people accused of crimes. This bill proposes one way to reduce the demand on our justice system. The Maine Judiciary's data show that the vast majority of VCRs that are charged are charged as Class E crimes.<sup>4</sup> In 2018, 2019, and in 2020, over 90% of VCRs were charged as Class E.<sup>5</sup> By eliminating Class E crime of VCR, this committee and this legislature can assist the criminal legal system in removing some of the approximately 8,000 additional charges being processed through the system each year.<sup>6</sup> It is undeniable that enacting this bill would help conserve judicial resources.

We urge you to bring Maine closer in line with the rest of the country by voting that LD 179 ought to pass.

Thank you for your time and attention.

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<sup>2</sup> The Report of the Intergovernmental Pretrial Justice Reform Task Force, Dec. 20, 2019, 19 n.33, <https://www.courts.maine.gov/about/reports/report-pretrial-justice-reform-task-force-dec2019.pdf>.

<sup>3</sup> Members of the Task Force voted 5-3-3 to eliminate warrantless arrests for VCR offenses with exceptions for certain offenses that involve crimes against a family or household members, sexual assaults, or OUI. *Id.* at 22.

<sup>4</sup> See attached MEJIS data.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

## Number of Charges Filed, by Offense Severity 2018-2020

### All Statutes

#### Number of Charges Filed, by Offense Severity

Felony: Class A, B, C | Misdemeanor: Class D, E

Severity	2018	2019	2020
Murder	14	17	18
Class A	1,077	1,136	1,109
Class B	2,782	2,601	2,006
Class C	7,342	7,304	7,075
Class D	22,428	22,488	18,185
Class E	38,428	36,817	29,882
<b>Total</b>	<b>72,071</b>	<b>70,363</b>	<b>58,275</b>

### Violating Conditions of Release (VCR) 15 M.R.S. § 1092

#### Number of VCR Charges Filed, by Offense Severity

Severity	2018	2019	2020
Class C	628	499	730
Class D*	16	13	21
Class E	7,336	7,957	8,261
<b>Total</b>	<b>7,980</b>	<b>8,469</b>	<b>9,012</b>

**Note:** The counts above represent distinct offenses that were charged in adult Criminal cases during the years specified, and do *not* represent a count of cases filed or individuals charged with an offense. Charges filed in Juvenile cases are not included. Counts are of charges filed with the court and do not represent a count of convictions.

\*Class D VCR charges can result from the following scenarios:

- Class C VCR charges that are reduced a step by the conspiracy, attempt, or solicitation statutes in 17-A M.R.S. §§ 151-153.
- Class E VCR charges that are elevated due to the use of a dangerous weapon pursuant to 17-A M.R.S. § 1604(5)(A).