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TESTIMONY OF

SUSAN GAGNON
DIRECTOR OF ADULT COMMUNITY CORRECTIONS
MAINE DEPARTMENT OF CORRECTIONS

February 24, 2025

In Opposition to:

LD 418, An Act to Remand Individuals with Pending State Probation Violations to the Department of Corrections Following Initial Proceedings

Senator Carney, Representative Kuhn, and distinguished members of the Joint Standing Committee on Judiciary, I am Susan Gagnon, Director of Adult Community Corrections at the Maine Department of Corrections (DOC), providing testimony today in opposition to LD 418, An Act to Remand Individuals with Pending State Probation Violations to the Department of Corrections Following Initial Proceedings.

To provide some baseline context for our position on this bill, it's important to note that jails and prisons are designed and located to serve different purposes and needs. Jails are the primary locations where people are held pretrial and the jails are distributed throughout the state in a way that provides local proximity to the corresponding courts. This distribution has the benefit of reducing transportation costs because throughout the prosecution process defendants are frequently brought back and forth between jail and court. This distribution also has the benefit of increasing accessibility to legal counsel, who are usually located in the same geographic area as the courts and thus the jails. Jails also serve as centers for short term commitments which are 9 months or less under Maine law (*see* 17-A MRS §1610, §1805(1)(E), and §1812(10)). Alternatively, Department of Corrections facilities are meant to serve the convicted population serving longer sentences, which means that our system is designed to focus on longer term rehabilitative functions. Because DOC facilities primarily serve the convicted population, most residents in DOC facilities are not going to court with any frequency, and our system is not designed to facilitate regular court appearances.

The proposal before you today would disrupt that framework by requiring that a person who is charged with a probation violation and not on bail must be remanded to the custody of the Department of Corrections until the person's pending court proceedings or final disposition on the matters for which the person is incarcerated has occurred. Specifically, the bill language is placed under 17-A MRS §1811 and reads:

5-A. Custody to Department of Corrections. If a person is denied bail under subsection 5, cannot make bail set under subsection 5 or has other matters pending before the court for which the person is incarcerated and bail has not yet been set, the person must be remanded to the custody of the Department of Corrections until the person's pending court proceedings or final disposition on the matters for which the person is incarcerated has occurred.

People on probation in Maine are not brought back into custody for minor violations. When violations do occur, probation officers typically work closely with probation clients to issue graduated sanctions and implement plans to correct behavior. When a client's actions do rise to the level of a recommendation that probation be revoked, that is a process which requires the involvement of a court. Clients are then taken into custody and provided a hearing before the court that



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will ultimately decide on the revocation. When bail is denied as part of this process, it's usually because of a new underlying criminal charge.

Maine law requires that a hearing on a motion to revoke probation must be held in the court that sentenced the person to probation in the county in which the person resides or is incarcerated, with rare exception (*see* 17-A MRS §1812(1)). Similarly, charges are brought by law enforcement in their respective counties and are prosecuted by the respective District Attorneys for those counties. By placing short term detainees in the custody of DOC while they await both the hearing regarding revocation of their probation and the prosecution of any new crime this bill, essentially, puts DOC facilities in a pre-trial adjacent role.

Putting DOC facilities in a pre-trial adjacent role is problematic for a number of reasons, not the least of which is the fact that DOC facilities are not necessarily located in close proximity to the relevant courts. In fact, depending on the court where the hearing occurs, especially if it occurs in the county where a detainee resides, the DOC facility where a detainee would be held under this proposal could be several hours away from the relevant courthouse. This would mean long transport distances and inefficiencies that would result in a substantial fiscal impact. Even if the hearing is held at the courthouse closest to the DOC facility, it would only lessen, not eliminate, this impact. The distance between the courthouse in Rockland and the Knox County Jail, for example, is far less than the distance between the courthouse and the Maine State Prison. The same is true of the courthouse and jail in Portland and the Maine Correctional Center and the courthouse and jail in Bangor and the Mountain View Correctional Facility. Further, having a hearing in the county where a detainee is incarcerated, instead of where the detainee resides (and where the alleged violation most likely occurred), would burden law enforcement, the prosecutor, and defense counsel. Finally, no matter the court and the distance involved, DOC officers would be tied up at the courthouse awaiting the holding of hearings instead of tending to their other duties. All this would be happening at the same time as jail officers would be bringing other defendants to court, with little extra burden entailed if the jail also transported the alleged probation violator.

While the Department is unable to provide an exact number at this time, we estimate that this bill would require us to hire at least an additional 12 full-time transport officers and procure at least 6 new vehicles to handle those transport inefficiencies. However, that estimation does not include any further impacts the department might face due to facility and staffing adjustments that would be necessary by requiring us to take on this additional population, nor does it address the added financial burden that would likely be faced by the courts closest to DOC facilities.

Finally, it's worth noting that this bill appears to create contradictions with other provisions of Maine Statute that it does not address. One example is Title 25, §1502, which requires that county jails must detain arrestees. Another is Title 15, §1025-A, which is written with the understanding that defendants are in the custody of the counties. This bill does not amend these or any other relevant provision of Maine law that would need to be addressed to facilitate the change it proposes.

For the reasons stated above, the Department of Corrections respectfully asks that the committee votes "Ought Not to Pass" on this proposal.



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Thank you,

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