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March 17, 2025

Senator Pinny Beebe-Center, Chair  
Representative Tavis Hasenfus, Chair  
Joint Standing Committee on Criminal Justice and Public Safety  
100 State House Station, Room 436  
Augusta, ME 04333

RE: LD 527, *An Act to Establish Bail Officers to Administer the Bail Code*

Dear Senator Beebe-Center, Representative Hasenfus, and Distinguished Members of the Joint Standing Committee on Criminal Justice and Public Safety:

My name is Elizabeth Simoni, and I am here today on behalf of Maine Pretrial Services to offer testimony in support of LD 527, *An Act to Establish Bail Officers to Administer the Bail Code*. I serve as the executive director of Maine Pretrial Services, Inc. (MPS), a private non-profit organization which provides criminal justice services in thirteen Maine counties. In addition to pretrial screening, pretrial release, community supervision, and case management, MPS also provides case management for each of Maine's treatment recovery courts.

Bail is a matter of great importance to our organization. Under county contracts, MPS staff are responsible for screening all individuals who are in pretrial detention prior to their initial appearance in front of a judge or justice. The process includes a defendant interview, independent verification of information gathered, a review of the criminal history and pending charge or charges, and the utilization of objective risk and needs assessments.

Maine remains unusual among the fifty states for continuing its practice of authorizing bail commissioners, who are essentially private subcontractors, to set and execute bail. As has been described, the bail commissioner system is not without difficulty. Bail commissioners are not required to have more than a high school education, bail commissioners have up to one year to complete bail commissioner training once appointed, bail commissioners cover a vast geographic area, bail commissioners are permitted to charge up to \$60 per bail executed, and bail commissioners do not have a formal mechanism for objectively assessing risk.

I have had the pleasure of working with many seasoned, professional, conscientious bail commissioners. But as described, it only takes a small error to either release someone who should be held or hold someone who has the right to be released. A perennial concern is that even if a defendant poses little to no risk for failing to appear or committing pretrial misconduct, under the current system, they are required to pay \$60 to the bail commissioner prior to release. Although provisions have been available by statute, some people are detained for failure to pay the \$60 fee. The \$60 fee itself, prior to adjudication or any finding of guilt, calls into question if a defendant truly does enjoy a presumption of innocence.

Maine's bail system, like most others in the United States, is in dire need of true reform, and although this bill does not achieve that, having bail officers to assist in the process of release determination and execution of bond is a step in the correct direction.

Money has no place as stakeholder in a criminal legal system. The origins of the word bail describe a process upon which a person's release is determined and effected. Over time, and with a heavy emphasis on financial release, "bail" has morphed into a term that is synonymous with money and financial release.

Elements that would move the bail system closer to reform would include abolishing financial release, employing locally validated pretrial outcome assessments to assess risk of flight, non-appearance, and pretrial misconduct, running NCIC or Triple I queries to verify criminal history, and creating a carefully limited mechanism for pretrial detention to be utilized only for those who pose unmanageable risk to public safety.

I urge you to examine at the national "*Standards on Pretrial Release*" as promulgated by the National Association of Pretrial Service Agencies (NAPSA). NAPSA recently released revisions to these standards (2024) which provide a detailed road map for systems to achieve a more fair and equitable method of release for most defendants and rules for carefully limited detention for those presenting unmanageable risks. Another useful document is the "*Essential Elements of a High Functioning Pretrial System*", published by the National Institute of Corrections. I have had the pleasure of working on both publications and am happy to answer any questions you may have.

Thank you for your commitment to the great state of Maine, and for serious consideration of this important bill and the possibility of further effort to reform the bail system.

Respectfully Submitted,



Elizabeth Simoni, J.D.

Executive Director

Maine Pretrial Services, Inc.