



State of Maine Judicial Branch
Administrative Office of the Courts

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Judicial Branch neither for nor against LD 527
An Act to Establish Bail Officers to Administer the Maine Bail Code

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 offer the following in support of this bill we submitted this Legislative session:

The Maine Judicial Branch has a Mission Statement: *"To administer justice by providing a safe, accessible, efficient and impartial system of dispute resolution that serves the public interest, protects individual rights, and instills respect for the law."* The Judicial Branch has set three strategic priorities to assist in fulfilling this mission:

1. Providing access to justice;
2. Ensuring the effective and efficient delivery of justice; and
3. Fostering public trust, confidence, and impartiality in the justice system.

The State of Maine's current bail system utilizes Bail Commissioners to execute bail bonds. While this system has been in place for some time, it is no longer functioning in a way that comports with the Judicial Branch's mission for administration of justice. The realities of the current process have generated an inefficient system that negatively impacts defendant's rights and public safety through errors and time delays.

So what does the Judicial Branch propose to do to remedy these issues? The amendments to the Bail Code we are proposing are summarized as follows:

1. create a Judicial Branch employee position called "Bail Officer"
2. authorize Law Enforcement Officers to fill out bail bonds
3. authorize Corrections Officers to fill out bail bonds without the current reference to personal recognizance/unsecured
4. allows for cash bail that may be approved to be paid by credit card to be assessed a surcharge equal to the service charge to the court for accepting credit card payment

This prompts two questions. (1) Why this specific proposal?, and (2) What are the issues this proposal attempts to fix?

(1) This specific proposal stemmed from research done nationally on bail process systems. We also looked at the financial output associated with the various models, and the proposal that is LD 527 is the most cost-effective change while also remedying the issues in our current system.

(2) The issues this proposal attempts to fix issues with how Bail Commissioners are fulfilling their duties. Before I outline these issues, I want to be sure to state that Bail Commissioners are primarily public servants, doing much of their work with no compensation. We have many folks that have been serving the State for multiple decades, and some that are quite good at what they do. What is about to be outlined, however, are the issues that are brought to the Court's attention multiple times a day, throughout the State, and must be remedied:

- There are not enough Bail Commissioners taking calls in many geographic areas, with defendants sometimes waiting hours for jails to reach a Bail Commissioner
- Bail Commissioners have difficulty retaining statutory bail-setting requirements despite ongoing training efforts
- Bail Commissioners often exceed or underutilizing their statutory authority, which causes four things to occur:
 - Defendants are at risk for being incarcerated when they should otherwise be released
 - Public safety is impacted if someone is bailed when they should be held until they go to Court
 - Cash is ordered when it should not be
 - Conditions are not being properly recorded, creating issues of inaccurate compliance/enforcement
- There are delays in the receipt of paperwork and/or bail monies by the Court, which delays bail hearings being able to be scheduled and/or delays the return of bail money to defendants
- Paperwork inaccuracies, primarily on court-ordered bails, impact what information is put into the METRO system with which law enforcement seeks compliance, thus creating public safety risks and/or defendant confusion and due process issues
- Bail Commissioners not asking the right questions to ensure they have all offense or criminal history information as required by statute
- There are vast inequities in bail setting based off geography or Bail Commissioner backgrounds
- "Free Bails" are supposed to be executed without the Bail Commissioner fee for indigent defendants. The number of bails that are eligible for no fee has significantly increased in the recent years, thus resulting in Bail Commissioners being less inclined to answer their phones or respond to law enforcement agencies in a timely manner to execute these bonds
 - In the 130th Legislature, the Judicial Branch submitted *LD 1856, An Act to Eliminate Conflicts of Interest with Respect to the Payment of Fees to Bail Commissioners*. That bill sought to have the State fund the payment of the \$60 bail commissioner fee for each bail done, rather than have the requirement on the defendants who had been arrested. This bill did not pass.

The creation of "Bail Officer" positions at the Judicial Branch, the primary focus of LD 527, allows for the Judicial Branch to hire persons with criminal justice experience and whose function would be exclusively committed to bail processes. The Judicial Branch would train, supervise and monitor their work. Bail Officers could receive calls, set bail, and complete the bail bonds remotely. The process could be much more fair, consistent, and efficient, all the

while minimizing paperwork errors, due process rights violations, and ensuring public safety as intended by the Bail Code.

The other proposed changes to the Bail Code in LD 527 are intended to assist in the efficiency of the bail process. The bonds Bail Officers complete could be sent to officers to print and have the defendant sign. Officers who are unable to receive an electronic copy of a bail bond for printing purposes would be able to fill out bail bonds themselves at the direction of the Bail Officer. Specifically, we are looking at ways to allow bail monies to be collected remotely.

We have not sought to repeal Bail Commissioners from the Bail Code. Rather, we understand that what we are proposing is different from our current system, and the finer details of the process need to be finalized collaboratively with stakeholders. During the transition period, Bail Commissioners will still need to be utilized. The specific process that would be followed for bail does not come through this bill – the Bail Code authorizes this process to be developed by the Chief Judge of the District Court. Rather, the passage of this bill will allow us to move a new process forward.

All of the issues I have outlined above -- it is not just the Court that is aware of these issues, but stakeholders as well. I expect you will hear from many of them in written or oral testimony today. We request that you pass LD 527 to ensure that justice in bail setting is done correctly and efficiently, without violating defendant's rights nor public safety.

Thank you for your time.