

§1094. Forfeiture of bail; enforcement

When a defendant who has been admitted to either preconviction or post-conviction bail in a criminal case fails to appear as required or has violated the conditions of release, the court shall declare a forfeiture of the bail. The obligation of the defendant and any sureties may be enforced in such manner as the Supreme Judicial Court shall by rule provide and in accordance with section 224-A and Title 17-A, section 2015, subsection 4. The rules adopted by the Supreme Judicial Court must provide for notice to the defendant and any sureties of the consequences of failure to comply with the conditions of bail. [PL 2019, c. 113, Pt. C, §33 (AMD).]

If the obligation of the defendant or any surety has been reduced to judgment pursuant to the Maine Rules of Unified Criminal Procedure, Rule 46, the following provisions apply to the enforcement of the obligation. [PL 2015, c. 431, §16 (AMD).]

1. Execution. The court shall issue an execution of the judgment once the judgment has become final by the expiration of the time for appeal, by dismissal of an appeal or on certificate of decision from the Supreme Judicial Court, unless the court that rendered judgment on the bail obligation has pursuant to rule ordered execution at an earlier time. The execution of the judgment is returnable within one year after issuance.

[PL 1991, c. 393, §4 (NEW).]

2. Lien on real estate, personal property and motor vehicles. An execution issued under this section creates the lien described in Title 14, section 4651-A, if properly filed according to that section. A filing or recording fee may not be charged for any execution issued under this section.

[PL 1991, c. 393, §4 (NEW).]

2-A. Violation of unsecured preconviction bail. If the court determines that an offender has violated unsecured preconviction bail and that the violation is not excused, the court shall enter an order of forfeiture of bail, which may not exceed the amount of the unsecured bail previously set. The attorney for the State may take action to collect the amount forfeited using measures authorized for the collection of unpaid restitution under Title 17-A, section 2006, including, but not limited to, entering into agreements with the offender for payment over a set period of time not to exceed one year. In order to satisfy an order of forfeiture entered under this subsection, pursuant to Title 36, section 185-A, the State Tax Assessor may withhold tax refunds owed to an offender.

[PL 2019, c. 659, Pt. D, §1 (AMD).]

3. Relation back of liens. The effective date of any execution lien created on any property pursuant to this section and Title 14, section 4651-A relates back to the date when a bail lien, as described in section 1071, was first filed or recorded in the proper place for the perfection or attachment of the lien. The relation back applies only to that portion of the bail obligation that the bail lien secured when it was recorded or filed. The remainder of the execution lien and the full amount of any execution lien created when no bail lien was ever recorded or filed, is effective and perfected from the date of the recording or filing of the execution. Any lien created pursuant to this section and Title 14, section 4651-A continues as long as the judgment issued on the bail obligation or any part of the bail obligation, plus costs and interest, has not been paid, discharged or released.

[PL 1991, c. 393, §4 (NEW).]

4. Enforcement. The lien provided by this section may be enforced by a turnover or sale order pursuant to Title 14, section 3131.

[PL 1991, c. 393, §4 (NEW).]

5. Application. This section applies to all bail obligations in effect on or after October 1, 1991 and all bail liens recorded as of or after October 1, 1991.

[PL 1991, c. 393, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 758, §20 (NEW). PL 1991, c. 393, §4 (RPR). PL 1997, c. 543, §21 (AMD). PL 2007, c. 31, §2 (AMD). PL 2015, c. 431, §16 (AMD). PL 2017, c. 221, §1 (AMD). PL 2019, c. 113, Pt. C, §§33, 34 (AMD). PL 2019, c. 659, Pt. D, §1 (AMD).

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