

Elizabeth Simoni
Maine Pretrial Services, Inc.
LD 1552
MAINE PRETRIAL SERVICES, INC.
9 GREEN STREET, SUITE 309
AUGUSTA, MAINE 04330
207-831-6849
elizabeth.simoni@mainepretrial.org

Senator Susan Deschambault
Representative Charlotte Warren
Joint Standing Committee on Criminal Justice and Public Safety
Maine State Legislature
Augusta, ME

RE: LD 1552, neither for nor against

February 18, 2022

Dear Senator Deschambault, Representative Warren, and Esteemed Members of the Joint standing Committee on Criminal Justice and Public Safety:

My name is Elizabeth Simoni. I live in Augusta, Maine, and am writing to you in my capacity as Executive Director of Maine Pretrial Services, Inc. I also serve as a member of the National Institute of Corrections' Pretrial Executive Network. I respectfully offer testimony today as an interested party, neither for nor against LD 1552.

LD 1552 seeks to limit which violations of conditions of release can serve as the basis for the Class E crime of violation of conditions of release under section 1092. As you know, thousands of people are returned to custody each year as a result of violations of conditions of release.

Maine Pretrial Services (MPS) offers support and supervision for individuals released on pre- and post-conviction bail in Maine. MPS tracks the number of individuals served each year, and also tracks the number and type of violations of bail that result in return to custody. Violations resulting in motions to revoke bail are broken out in categories, and include:

- New Criminal Conduct
- Failure to Appear
- Victim Contact
- Failure to Report to the agency
- Positive Drug or Alcohol Screens
- Other

In 2020, MPS served 3,085 individuals on pre- and post-conviction release.

Of the 3,085 individuals, 2,385 were pretrial defendants.

Of the 3,085 individuals, MPS observed or had probable cause to believe violations occurred, resulting in a return to custody, as follows:

- 172 New Criminal Conduct (5.5%)
- 18 Failures to Appear for Court (.58%)
- 12 Victim Contacts (.39%)
- 89 Failed to Report (2.8%)
- 46 Positive Drug/Alcohol Screen

It is instructive to note that MPS recorded many more positive drug and alcohol tests, reporting all in writing to the court, prosecution, and defense. Parties, including judges and prosecutors, agreed to most individuals remaining in the community, with the illicit use violations being addressed through connections to behavioral health and substance use treatment and recovery supports. MPS staff are trained to work with both the defendant and the community to mitigate the risk posed by these types of use violations. Conversely, violations for new criminal conduct, victim contact, and failing to report result in re-arrest under an assertion of violation of conditions of release.

The management of violations of conditions of release varies between practitioners

and by jurisdiction. Many people charged with a violation of condition of release simply don't get another chance at release. Those with violations of conditions of release in their histories often remain incarcerated through the imposition of unreachable financial bail.

Many alleged violations are simply "nuisances" and do not threaten public safety. These include drinking in public or other substance use related violations. These types of behaviors impact public comfort, public peace, public enjoyment, and public health, but not public safety. People struggling with substance use disorders typically cannot stop using without community, treatment, and recovery supports. Incarceration does not provide that. Bail conditions and punishments for violations of bail conditions related to substance use disorder do not remedy the underlying issues.

With the current practices regarding violations of conditions of release, the net of incarceration stays wide and people are potentially punished pre-conviction for violating a condition of bail for a charge for which they are presumed innocent.

There are certainly instances where an instruction by the court not to contact a victim, return to a victim's home, or tamper with a witness, are essential to public safety and arguably under a defendant's control. LD 1552 protects those instances.

Thank you very much for your consideration.

Respectfully,

Elizabeth Simoni