

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 132nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2025

---

Legislative Document

No. 449

---

H.P. 303

House of Representatives, February 4, 2025

**An Act to Authorize a Court to Conditionally Discharge Certain  
Criminal Defendants**

---

Reference to the Committee on Judiciary suggested and ordered printed.

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative SINCLAIR of Bath.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §10902, sub-§1**, as amended by PL 2023, c. 265, §1, is further  
3 amended to read:

4 **1. Conviction or adjudication of violation.** Any conviction, adjudication, deferred  
5 disposition pursuant to Title 17-A, section 1902, subsection 1, conditional discharge  
6 pursuant to Title 17-A, section 122, subsection 1 or written filing agreement with the State  
7 pursuant to the Maine Rules of Unified Criminal Procedure, Rule 11B for a violation of  
8 this Part is grounds for suspension of any license or permit issued under this Part. Except  
9 when provided by law, the commissioner shall determine the suspension period. To  
10 suspend a license or permit based upon a conviction or adjudication, the commissioner  
11 shall follow the procedures under section 10903. A suspension or revocation of a license  
12 by the District Court is subject to the provisions of subsection 5.

13 **Sec. 2. 12 MRSA §10902, sub-§2**, as amended by PL 2023, c. 265, §2, is further  
14 amended to read:

15 **2. Refusal to issue license or permit.** If a person is convicted, is adjudicated, enters  
16 into a deferred disposition pursuant to Title 17-A, section 1902, subsection 1, is subject to  
17 an order of conditional discharge pursuant to Title 17-A, section 122, subsection 1 or enters  
18 into a written filing agreement with the State pursuant to the Maine Rules of Unified  
19 Criminal Procedure, Rule 11B in violation of any provision of this Part and is not the holder  
20 of a valid license or permit issued under this Part, the commissioner may refuse to issue a  
21 related license or permit to that person for up to 5 years following the date of conviction or  
22 adjudication, except when the killing or wounding of a human being has occurred, in which  
23 case the commissioner may refuse to issue the license or permit for a period of not less than  
24 5 years.

25 **Sec. 3. 16 MRSA §703, sub-§5**, as enacted by PL 2013, c. 267, Pt. A, §2, is  
26 amended to read:

27 **5. Disposition.** "Disposition" means information of record disclosing that a criminal  
28 proceeding has been concluded, although not necessarily finalized, and the specific nature  
29 of the concluding event. "Disposition" includes, but is not limited to: an acquittal; a  
30 dismissal, with or without prejudice; the filing of a charge by agreement of the parties or  
31 by a court; an order of conditional discharge; the determination that a defendant is currently  
32 a fugitive from justice; a conviction, including the acceptance by a court of a plea of guilty  
33 or nolo contendere; a deferred disposition; a proceeding indefinitely continued or dismissed  
34 due to a defendant's incompetence; a finding of not criminally responsible by reason of  
35 insanity or its equivalent; a mistrial, with or without prejudice; a new trial ordered; an arrest  
36 of judgment; a sentence imposition; a resentencing ordered; an execution of and completion  
37 of any sentence alternatives imposed, including but not limited to fines, restitution,  
38 correctional custody and supervision, and administrative release; a release or discharge  
39 from a commitment based upon a finding of not criminally responsible by reason of insanity  
40 or its equivalent; the death of the defendant; any related pretrial and post-trial appeals,  
41 collateral attacks and petitions; a pardon, commutation, reprieve or amnesty; and  
42 extradition. "Disposition" also includes information of record disclosing that the  
43 responsible law enforcement agency or officer has elected not to refer a matter to a  
44 prosecutor, that the responsible prosecutorial office or prosecutor has elected not to initiate

1 or approve criminal proceedings or that a grand jury has determined that there is insufficient  
2 evidence to warrant the return of a formal charge.

3 **Sec. 4. 17-A MRSA c. 6** is enacted to read:

4 **CHAPTER 6**

5 **CONDITIONAL DISCHARGE**

6 **§121. Eligibility for conditional discharge**

7 A defendant is eligible for a conditional discharge if the defendant consents to a  
8 conditional discharge in writing; is charged with one or more Class C, Class D or Class E  
9 crimes or Class B crimes under chapter 45; is not also currently charged with murder, a  
10 Class A crime or a Class B crime other than a Class B crime under chapter 45; has not  
11 previously been convicted of murder or a Class A, Class B or Class C crime; and has not  
12 previously been subject to a conditional discharge.

13 **§122. Conditional discharge**

14 **1. Authority of court to order conditional discharge.** The court may, without  
15 accepting a plea, order that all pending criminal proceedings for a defendant who is eligible  
16 for a conditional discharge under section 121 be suspended for a specific period of time,  
17 not to exceed 6 months, and impose conditions on the defendant to be in effect during the  
18 period of suspension. A conditional discharge may be ordered over the objection of the  
19 attorney for the State.

20 **2. Conditions of conditional discharge.** If a court enters an order of conditional  
21 discharge under subsection 1, the court shall attach conditions of conditional discharge,  
22 including, without exception, a condition that the defendant refrain from criminal conduct.  
23 The court may also impose any of the following additional conditions that the court  
24 considers to be reasonable and appropriate to assist the defendant in leading a law-abiding  
25 life:

26 A. Any condition that could be imposed as a condition of probation under section 1807,  
27 subsection 2 other than a condition under section 1807, subsection 2, paragraphs H, J  
28 or K. If the court imposes a condition that the defendant participate in an electronic  
29 monitoring program under section 1807, subsection 2, paragraph M, the court shall  
30 impose as an additional condition that the defendant pay an electronic monitoring fee  
31 to the appropriate person. If the court imposes a condition of psychiatric outpatient or  
32 inpatient treatment or mental health counseling, the provisions of section 1807,  
33 subsection 5 apply;

34 B. A condition that the defendant remain in the custody of a designated individual or  
35 organization agreeing to supervise the defendant and that the defendant report as  
36 directed to the designated individual or organization, answer all reasonable inquiries  
37 from the designated individual or organization, permit the designated individual or a  
38 member of the designated organization to visit at reasonable times the defendant's  
39 home or other designated location and notify the designated individual or organization  
40 of any change in the defendant's address or employment. When it is feasible to do so,  
41 the court may interview an individual or a member of an organization prior to imposing

1 a condition under this paragraph to ensure that the individual or organization is willing  
2 and able to ensure that the defendant refrain from any new criminal conduct and adhere  
3 to the other conditions imposed under this subsection. The court may not designate a  
4 probation officer to supervise the defendant under this paragraph unless no other  
5 suitable individual or organization is available. The designated individual or  
6 organization shall agree to immediately notify the court of any violation by the  
7 defendant of any condition imposed under this subsection;

8 C. If the court imposes a condition under paragraph B, a condition that the defendant  
9 pay an administrative supervision fee of between \$10 and \$50 per month to the  
10 designated individual or organization or, if the designated individual is a probation  
11 officer, to the Department of Corrections. In determining whether to set an amount  
12 higher than \$10 per month, the court shall take into account the financial resources of  
13 the defendant and the nature of the burden its payment imposes; and

14 D. If the court imposes a condition under paragraph B, a condition that the defendant  
15 remain within the jurisdiction of the court, unless permission to leave the jurisdiction  
16 of the court temporarily is granted in writing by the designated individual or  
17 organization. If a condition is imposed under this paragraph, the designated individual  
18 or organization, or if the designated individual is a probation officer, the Department  
19 of Corrections, may impose an application fee of up to \$25 on a defendant applying for  
20 such permission and an additional fee of up to \$25 per month if permission is sought  
21 and granted to leave the jurisdiction of the court on a periodic basis. Permission to  
22 leave the jurisdiction of the court may not be denied or withdrawn solely because the  
23 defendant is not able to pay the application fee or the additional fee. When a defendant  
24 fails to pay a fee imposed under this paragraph, the designated individual or  
25 organization may refuse to process the application or may withdraw permission to  
26 leave the jurisdiction of the court if the failure to pay is attributable to the defendant's  
27 willful refusal to pay or to a failure on the defendant's part to make a good faith effort  
28 to obtain funds required for the payment.

29 **3. Modification of conditions.** During the period of time that a defendant is subject  
30 to an order of conditional discharge under subsection 1, upon application of the defendant,  
31 any individual or organization designated by the court under subsection 2, paragraph B or,  
32 upon the court's own motion, the court may, after a hearing upon notice to the attorney for  
33 the State and the defendant, modify the conditions imposed by the court under subsection  
34 2. In response to the motion, the court may add further conditions or relieve the defendant  
35 of any condition that, in the court's opinion, imposes an unreasonable burden on the  
36 defendant, except that the court may not relieve the defendant of the condition that the  
37 defendant refrain from criminal conduct.

38 **4. Preconviction bail.** Preconviction bail provisions under Title 15, chapter 105-A  
39 apply to a defendant subject to an order of conditional discharge.

40 **5. Other rights unaffected.** A defendant's written consent to a conditional discharge  
41 may not be construed as a waiver of the defendant's rights under any other law.

## 42 **§123. Final disposition**

43 **1. Dismissal with prejudice.** Except as provided in subsection 2, at the conclusion of  
44 the period of time specified in the order of conditional discharge under section 122,  
45 subsection 1, or at the conclusion of any extended time period ordered under section 124,

1 subsection 2, the court shall enter an order dismissing with prejudice all pending criminal  
2 charges that are the subject of the order of conditional discharge.

3 **2. Exception; pending motion to terminate.** If, at the time specified in subsection 1,  
4 there is a pending motion under section 124, subsection 1 to terminate the order of  
5 conditional discharge, the court may not enter an order under subsection 1 unless the court  
6 enters an order denying that pending motion.

7 **§124. Violation of condition**

8 **1. Motion to terminate.** If, during the period that a defendant is subject to an order of  
9 conditional discharge under section 122, the attorney for the State has probable cause to  
10 believe that the defendant has violated a court-imposed condition of conditional discharge,  
11 the attorney for the State may file a motion with the court to terminate the order of  
12 conditional discharge.

13 **2. Hearing; disposition.** Following notice to the defendant and hearing, if the attorney  
14 for the State proves by a preponderance of the evidence that the defendant has inexcusably  
15 failed to comply with a court-imposed condition of conditional discharge, the court may:

16 A. Revoke the order of conditional discharge and order that the suspended criminal  
17 proceedings are no longer suspended; or

18 B. Modify the order of conditional discharge in one or both of the following ways:

19 (1) Adding further conditions of conditional discharge authorized by section 122,  
20 subsection 2; and

21 (2) Extending, for a period not to exceed 6 months, the period of time during which  
22 all pending criminal proceedings for the defendant are suspended and the defendant  
23 is subject to the order of conditional discharge.

24 **3. Exception; failure to pay fee.** Notwithstanding subsection 2, if the attorney for the  
25 State proves by a preponderance of the evidence that the defendant has violated one or  
26 more conditions of conditional discharge and the only conditions violated involve the  
27 payment of fees, the court may not revoke the order of conditional discharge if the  
28 defendant shows that failure to pay the fees was not attributable to the defendant's willful  
29 refusal to pay or to a failure on the defendant's part to make a good faith effort to obtain  
30 funds required for the payment.

31 **4. Violation not a crime.** A defendant who violates a condition of conditional  
32 discharge may not be charged with a crime unless the conduct constitutes a crime under  
33 another provision of law.

34 **5. Place of hearing.** A hearing under this section or section 122, subsection 3 must be  
35 held in the court that ordered the conditional discharge. The hearing need not be conducted  
36 by the justice or judge who originally ordered the conditional discharge.

37 **6. Rights of defendant at hearing.** At a hearing under this section or section 122,  
38 subsection 3, the defendant must be given the opportunity to confront and cross-examine  
39 witnesses against the defendant, to present evidence on the defendant's own behalf and to  
40 be represented by counsel. If the defendant cannot afford counsel, the court shall appoint  
41 counsel for the defendant. Assignment of counsel and withdrawal of counsel must be in  
42 accordance with the Maine Rules of Unified Criminal Procedure.



1 termination motion are obtained as a result of a medical professional's or law enforcement  
2 officer's responding to a request for medical assistance for a suspected drug-related  
3 overdose or if the identity of the defendant is learned or the defendant is identified as a  
4 person subject to termination of a conditional discharge as a result of a medical  
5 professional's or law enforcement officer's responding to a request for medical assistance  
6 for a suspected drug-related overdose.

7 Finally, the bill provides that the Commissioner of Inland Fisheries and Wildlife may  
8 suspend any of a defendant's fish or wildlife licenses or permits or may refuse to issue a  
9 related fish or wildlife license or permit to a defendant based on the entry of an order of  
10 conditional discharge against the defendant charged with violating any provision of the  
11 Maine Revised Statutes, Title 12, Part 13. Under current law, the commissioner may  
12 suspend any fish or wildlife license or permit or refuse to issue a related fish or wildlife  
13 license or permit based on a defendant's conviction, adjudication, deferred disposition or  
14 written filing agreement with the State related to a violation of any provision of Title 12,  
15 Part 13.