

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1704

H.P. 1256

House of Representatives, December 23, 2011

### **An Act To Amend the Maine Bail Code To Protect Victims of Domestic Violence**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 21, 2011. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative FREDETTE of Newport.  
Cosponsored by Senator PLOWMAN of Penobscot and  
Representatives: CAIN of Orono, CUSHING of Hampden, FOSSEL of Alna, MARTIN of Eagle Lake, SANDERSON of Chelsea, SIROCKI of Scarborough, WALLACE of Dexter, WINSOR of Norway.

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

2 **Sec. 1. 15 MRSA §1023, sub-§4, ¶C**, as amended by PL 2011, c. 341, §2, is  
3 repealed.

4 **Sec. 2. 15 MRSA §1023, sub-§4, ¶C-1** is enacted to read:

5 C-1. Set preconviction bail in a case involving domestic violence;

6 **Sec. 3. 15 MRSA §1026, sub-§3, ¶A**, as repealed and replaced by PL 2007, c.  
7 518, §3, is amended to read:

8 A. If, after consideration of the factors listed in subsection 4, the judicial officer  
9 determines that the release described in subsection 2-A will not reasonably ensure the  
10 appearance of the defendant at the time and place required, will not reasonably ensure  
11 that the defendant will refrain from any new criminal conduct, will not reasonably  
12 ensure the integrity of the judicial process or will not reasonably ensure the safety of  
13 others in the community, the judicial officer shall order the pretrial release of the  
14 defendant subject to the least restrictive further condition or combination of  
15 conditions that the judicial officer determines will reasonably ensure the appearance  
16 of the defendant at the time and place required, will reasonably ensure that the  
17 defendant will refrain from any new criminal conduct, will reasonably ensure the  
18 integrity of the judicial process and will reasonably ensure the safety of others in the  
19 community. These conditions may include that the defendant:

20 (1) Remain in the custody of a designated person or organization agreeing to  
21 supervise the defendant, including a public official, public agency or publicly  
22 funded organization, if the designated person or organization is able to  
23 reasonably ensure the appearance of the defendant at the time and place required,  
24 that the defendant will refrain from any new criminal conduct, the integrity of the  
25 judicial process and the safety of others in the community. When it is feasible to  
26 do so, the judicial officer shall impose the responsibility upon the defendant to  
27 produce the designated person or organization. The judicial officer may  
28 interview the designated person or organization to ensure satisfaction of both the  
29 willingness and ability required. The designated person or organization shall  
30 agree to notify immediately the judicial officer of any violation of release by the  
31 defendant;

32 (2) Maintain employment or, if unemployed, actively seek employment;

33 (3) Maintain or commence an educational program;

34 (4) Abide by specified restrictions on personal associations, place of abode or  
35 travel;

36 (5) Avoid all contact with a victim of the alleged crime, a potential witness  
37 regarding the alleged crime or with any other family or household members of  
38 the victim or the defendant or to contact those individuals only at certain times or  
39 under certain conditions;

40 (6) Report on a regular basis to a designated law enforcement agency or other  
41 governmental agency;

- 1 (7) Comply with a specified curfew;
- 2 (7-A) If the defendant has been charged with a crime involving domestic  
3 violence, submit to supervision by an electronic monitoring system under the  
4 supervision of an agency designated by the judicial officer that:
- 5 (i) Immediately notifies law enforcement officers or other monitors, the  
6 victim and other persons designated by the court to be at risk of harm of any  
7 breach by the defendant of a court-ordered restriction to remain within  
8 certain physical boundaries;
- 9 (ii) Has a loud alarm that can be activated to warn the victim or other person  
10 designated by the court to be at risk of harm of the presence of the defendant  
11 in an area from which the defendant has been barred; and
- 12 (iii) Permits the cost of electronic monitoring to be assessed as court costs or  
13 ordered by the court to be paid directly by the defendant as a condition of  
14 bail;
- 15 (8) Refrain from possessing a firearm or other dangerous weapon;
- 16 (9) Refrain from use or excessive use of alcohol and from any use of drugs;
- 17 (10) Undergo, as an outpatient, available medical or psychiatric treatment, or  
18 enter and remain, as a voluntary patient, in a specified institution when required  
19 for that purpose;
- 20 (10-A) Enter and remain in a long-term residential facility for the treatment of  
21 substance abuse;
- 22 (11) Execute an agreement to forfeit, in the event of noncompliance, such  
23 designated property, including money, as is reasonably necessary to ensure the  
24 appearance of the defendant at the time and place required, to ensure that the  
25 defendant will refrain from any new criminal conduct, to ensure the integrity of  
26 the judicial process and to ensure the safety of others in the community and post  
27 with an appropriate court such evidence of ownership of the property or such  
28 percentage of the money as the judicial officer specifies;
- 29 (12) Execute a bail bond with sureties in such amount as is reasonably necessary  
30 to ensure the appearance of the defendant at the time and place required, to  
31 ensure that the defendant will refrain from any new criminal conduct, to ensure  
32 the integrity of the judicial process and to ensure the safety of others in the  
33 community;
- 34 (13) Return to custody for specified hours following release for employment,  
35 schooling or other limited purposes;
- 36 (14) Report on a regular basis to the defendant's attorney;
- 37 (15) Notify the court of any changes of address or employment;
- 38 (16) Provide to the court the name, address and telephone number of a  
39 designated person or organization that will know the defendant's whereabouts at  
40 all times;

1 (17) Inform any law enforcement officer of the defendant's condition of release  
2 if the defendant is subsequently arrested or summonsed for new criminal  
3 conduct; and

4 (18) Satisfy any other condition that is reasonably necessary to ensure the  
5 appearance of the defendant at the time and place required, to ensure that the  
6 defendant will refrain from any new criminal conduct, to ensure the integrity of  
7 the judicial process and to ensure the safety of others in the community.

8 **Sec. 4. 15 MRSA §1026, sub-§4-A** is enacted to read:

9 **4-A. Considerations in charges for crimes involving domestic violence.**  
10 Notwithstanding the other provisions of this section, a defendant charged with a crime  
11 involving domestic violence may not be released unless a criminal history of the  
12 defendant has been completed and reviewed by the judicial officer.

13 **SUMMARY**

14 This bill amends the Maine Bail Code to provide protection for the victim of a crime  
15 involving domestic violence or persons likely to be harmed by a defendant in a domestic  
16 violence prosecution by providing that bail may be determined only by judges, not bail  
17 commissioners, and by requiring the judge to review and consider the defendant's  
18 criminal history. The bill also provides that electronic monitoring may be a condition of  
19 bail for the defendant charged with a crime involving domestic violence and that the  
20 defendant may be ordered to pay the cost of that monitoring.