# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## **FIRST REGULAR SESSION-2013**

**Legislative Document** 

No. 266

S.P. 99

In Senate, February 7, 2013

### An Act To Improve the Law Regarding Bail Commissioners

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

DAREK M. GRANT Secretary of the Senate

Presented by Senator GERZOFSKY of Cumberland.

Cosponsored by Senators: DUTREMBLE of York, LACHOWICZ of Kennebec, Representatives: DION of Portland, PLANTE of Berwick, PRIEST of Brunswick.

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

### **Sec. 1. 15 MRSA §1023, sub-§1-A** is enacted to read:

- 1-A. Duty of law enforcement agency. A law enforcement agency shall maintain a list of all bail commissioners available to that agency and provide each bail commissioner on the list with equal opportunities to set bail. A law enforcement agency may not contact a bail commissioner on the list who has set bail more times than one or more other bail commissioners on the list within the previous 30 days unless all other bail commissioners on the list who have set bail fewer times than that bail commissioner are unavailable. A law enforcement agency shall maintain a record of the list and of all the contacts to bail commissioners made from the list, including the name of the bail commissioner contacted, the name of the defendant to be bailed, the date and the time of the contact and whether the bail commissioner was available to set bail.
- Sec. 2. 15 MRSA §1023, sub-§4, ¶C, as amended by PL 2011, c. 640, Pt. A, §2 and c. 680, §1, is repealed and the following enacted in its place:
  - C. In a case involving domestic violence, set preconviction bail for a defendant before obtaining from the arresting officer:
    - (1) A brief history of the alleged abuser;
  - (2) The relationship of the parties;
- 19 (3) The name, address and age of the victim;
- 20 (4) Existing conditions of protection from abuse orders, conditions of bail and conditions of probation;
  - (5) Information about the severity of the alleged offense; and
  - (6) Beginning no later than January 1, 2015, the results of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety conducted on the alleged abuser when the results are available;
    - **Sec. 3. 15 MRSA §1023, sub-§5,** as amended by PL 2009, c. 23, §1, is further amended to read:
      - **5. Fees.** A bail commissioner is entitled to receive a fee not to exceed \$60 for the charges pursuant to which the defendant is presently in custody. The bail commissioner shall submit such forms as the Judicial Department directs to verify the amount of fees received under may waive the fee required by this subsection at the bail commissioner's discretion. The sheriff of the county in which the defendant is detained may shall create a fund for the distribution by the sheriff or the sheriff's designee for the payment in whole or in part of the \$60 bail commissioner fee for those defendants who do not have the financial ability to pay that fee and have been bailed from a county facility administered by that sheriff.

Sec. 4. 15 MRSA §1023, sub-§8, as enacted by PL 2011, c. 214, §3 and affected by §6, is amended to read:

**8. Bail commissioners in indigent cases.** The Chief Judge of the District Court may adopt rules requiring a A bail commissioner may not refuse to appear and set bail regardless of whether the defendant is indigent and if a defendant is unable to pay the bail commissioner's fee. The Chief Judge of the District Court may also shall adopt rules governing the manner in which a bail commissioner is paid in the event an indigent person is released on bail and is unable to pay the bail commissioner's fee and the bail commissioner does not waive the fee under subsection 5. Rules adopted pursuant to this subsection must include a provision to collect a bail commissioner's fee as a surcharge if the defendant is unable to pay the fee at the time of setting bail.

12 SUMMARY

 This bill amends the Maine Bail Code regarding bail commissioners by:

- 1. Requiring law enforcement agencies to maintain a list of available bail commissioners and to provide each bail commissioner on the list equal opportunities to set bail;
- 2. Amending the law regarding the sources and content of personal information a bail commissioner is required to obtain prior to setting bail in domestic violence cases; and
- 3. Giving a bail commissioner discretion to waive the bail commissioner fee, requiring a sheriff to set up a fund to help pay bail fees for indigent defendants in county facilities administered by that sheriff and requiring the Chief Judge of the District Court to adopt rules to collect the bail fee as a surcharge for those defendants who cannot pay the bail fee at the time bail is set.