

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1155

H.P. 793

House of Representatives, March 31, 2015

An Act Concerning Electronic Monitoring and Increased Bail for Certain Crimes Involving Violence

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PICCHIOTTI of Fairfield.
Cosponsored by Senator WHITEMORE of Somerset and
Representatives: BECK of Waterville, COOPER of Yarmouth, GUERIN of Glenburn,
LONGSTAFF of Waterville, McCABE of Skowhegan, NADEAU of Winslow, NUTTING of
Oakland, Senator: SAVIELLO of Franklin.

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

2 **Sec. 1. 15 MRSA §1023, sub-§4, ¶C**, as repealed and replaced by PL 2013, c.
3 424, Pt. A, §6, is amended to read:

4 C. In a case involving domestic violence, set preconviction bail for a defendant
5 before making a good faith effort to obtain from the arresting officer, the responsible
6 prosecutorial office, a jail employee or other law enforcement officer:

7 (1) A brief history of the alleged abuser;

8 (2) The relationship of the parties;

9 (3) The name, address, phone number and date of birth of the victim;

10 (4) Existing conditions of protection from abuse orders, conditions of bail and
11 conditions of probation;

12 (5) Information about the severity of the alleged offense, including, when
13 feasible, information from the victim when the alleged offense is a violation of
14 Title 17-A, section 207, 207-A, 208, 208-B, 208-C, 209, 209-A, 210, 210-A,
15 210-B, 210-C, 211, 211-A or 213; and

16 (6) Beginning no later than January 1, 2015, the results of a validated, evidence-
17 based domestic violence risk assessment recommended by the Maine
18 Commission on Domestic and Sexual Abuse, established in Title 5, section
19 12004-I, subsection 74-C, and approved by the Department of Public Safety
20 conducted on the alleged abuser when the results are available;

21 **Sec. 2. 15 MRSA §1026, sub-§3, ¶A**, as amended by PL 2013, c. 227, §1, is
22 further amended to read:

23 A. If, after consideration of the factors listed in subsection 4, the judicial officer
24 determines that the release described in subsection 2-A will not reasonably ensure the
25 appearance of the defendant at the time and place required, will not reasonably ensure
26 that the defendant will refrain from any new criminal conduct, will not reasonably
27 ensure the integrity of the judicial process or will not reasonably ensure the safety of
28 others in the community, the judicial officer shall order the pretrial release of the
29 defendant subject to the least restrictive further condition or combination of
30 conditions that the judicial officer determines will reasonably ensure the appearance
31 of the defendant at the time and place required, will reasonably ensure that the
32 defendant will refrain from any new criminal conduct, will reasonably ensure the
33 integrity of the judicial process and will reasonably ensure the safety of others in the
34 community. These conditions may include that the defendant:

35 (1) Remain in the custody of a designated person or organization agreeing to
36 supervise the defendant, including a public official, public agency or publicly
37 funded organization, if the designated person or organization is able to
38 reasonably ensure the appearance of the defendant at the time and place required,
39 that the defendant will refrain from any new criminal conduct, the integrity of the
40 judicial process and the safety of others in the community. When it is feasible to
41 do so, the judicial officer shall impose the responsibility upon the defendant to

- 1 produce the designated person or organization. The judicial officer may
2 interview the designated person or organization to ensure satisfaction of both the
3 willingness and ability required. The designated person or organization shall
4 agree to notify immediately the judicial officer of any violation of release by the
5 defendant;
- 6 (2) Maintain employment or, if unemployed, actively seek employment;
- 7 (3) Maintain or commence an educational program;
- 8 (4) Abide by specified restrictions on personal associations, place of abode or
9 travel;
- 10 (5) Avoid all contact with a victim of the alleged crime, a potential witness
11 regarding the alleged crime or with any other family or household members of
12 the victim or the defendant or to contact those individuals only at certain times or
13 under certain conditions;
- 14 (6) Report on a regular basis to a designated law enforcement agency or other
15 governmental agency;
- 16 (7) Comply with a specified curfew;
- 17 (8) Refrain from possessing a firearm or other dangerous weapon;
- 18 (9) Refrain from use or excessive use of alcohol and from any use of drugs;
- 19 (10) Undergo, as an outpatient, available medical or psychiatric treatment, or
20 enter and remain, as a voluntary patient, in a specified institution when required
21 for that purpose;
- 22 (10-A) Enter and remain in a long-term residential facility for the treatment of
23 substance abuse;
- 24 (11) Execute an agreement to forfeit, in the event of noncompliance, such
25 designated property, including money, as is reasonably necessary to ensure the
26 appearance of the defendant at the time and place required, to ensure that the
27 defendant will refrain from any new criminal conduct, to ensure the integrity of
28 the judicial process and to ensure the safety of others in the community and post
29 with an appropriate court such evidence of ownership of the property or such
30 percentage of the money as the judicial officer specifies;
- 31 (12) Execute a bail bond with sureties in such amount as is reasonably necessary
32 to ensure the appearance of the defendant at the time and place required, to
33 ensure that the defendant will refrain from any new criminal conduct, to ensure
34 the integrity of the judicial process and to ensure the safety of others in the
35 community;
- 36 (13) Return to custody for specified hours following release for employment,
37 schooling or other limited purposes;
- 38 (14) Report on a regular basis to the defendant's attorney;
- 39 (15) Notify the court of any changes of address or employment;

1 (16) Provide to the court the name, address and telephone number of a
2 designated person or organization that will know the defendant's whereabouts at
3 all times;

4 (17) Inform any law enforcement officer of the defendant's condition of release
5 if the defendant is subsequently arrested or summonsed for new criminal
6 conduct;

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

11 (19) ~~Participate~~ Except for a defendant subject to the requirements of subsection
12 3-A, participate in an electronic monitoring program, if available.

13 **Sec. 3. 15 MRSA §1026, sub-§3-A** is enacted to read:

14 **3-A. Electronic monitoring program.** Every order for the pretrial release of a
15 defendant who is released on bail for an alleged violation of Title 17-A, section 207,
16 207-A, 208, 208-B, 208-C, 209, 209-A, 210, 210-A, 210-B, 210-C, 211, 211-A or 213
17 must include a requirement that the defendant participate in an electronic monitoring
18 program, if an electronic monitoring program is available, and pay the full cost of
19 participation in that program.

20 **Sec. 4. 15 MRSA §1026, sub-§4,** as amended by PL 2011, c. 680, §2, is further
21 amended to read:

22 **4. Factors to be considered in release decision.** In setting bail, the judicial officer
23 ~~shall~~, on the basis of an interview with the defendant, information provided by the
24 defendant's attorney ~~and~~, information provided by the attorney for the State or an
25 informed law enforcement officer if the attorney for the State is not available, when
26 feasible any information from the victim when the alleged offense is a violation of Title
27 17-A, section 207, 207-A, 208, 208-B, 208-C, 209, 209-A, 210, 210-A, 210-B, 210-C,
28 211, 211-A or 213, and other reliable information that can be obtained, shall take into
29 account the available information concerning the following:

- 30 A. The nature and circumstances of the crime charged;
- 31 B. The nature of the evidence against the defendant; and
- 32 C. The history and characteristics of the defendant, including, but not limited to:
- 33 (1) The defendant's character and physical and mental condition;
- 34 (2) The defendant's family ties in the State;
- 35 (3) The defendant's employment history in the State;
- 36 (4) The defendant's financial resources;
- 37 (5) The defendant's length of residence in the community and the defendant's
38 community ties;

- 1 (6) The defendant's past conduct, including any history relating to drug or
2 alcohol abuse;
- 3 (7) The defendant's criminal history, if any;
- 4 (8) The defendant's record concerning appearances at court proceedings;
- 5 (9) Whether, at the time of the current offense or arrest, the defendant was on
6 probation, parole or other release pending trial, sentencing, appeal or completion
7 of a sentence for an offense in this jurisdiction or another;
- 8 (9-A) Any evidence that the defendant poses a danger to the safety of others in
9 the community, including the results of a validated, evidence-based domestic
10 violence risk assessment recommended by the Maine Commission on Domestic
11 and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and
12 approved by the Department of Public Safety;
- 13 (10) Any evidence that the defendant has obstructed or attempted to obstruct
14 justice by threatening, injuring or intimidating a victim or a prospective witness,
15 juror, attorney for the State, judge, justice or other officer of the court; and
- 16 (11) Whether the defendant has previously violated conditions of release,
17 probation or other court orders, including, but not limited to, violating protection
18 from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

19 **Sec. 5. 15 MRSA §1032** is enacted to read:

20 **§1032. Additional bail requirements applicable to certain crimes**

21 Notwithstanding any provision of law to the contrary, if bail has been set for a
22 violation of Title 17-A, section 207, 207-A, 208, 208-B, 208-C, 209, 209-A, 210, 210-A,
23 210-B, 210-C, 211, 211-A or 213, the requirements of this section apply in addition to
24 any applicable conditions imposed under this subchapter. For a violation of section 207,
25 207-A, 208, 208-B or 208-C, the minimum amount at which bail may be set is \$4,000.
26 For a violation of section 209, 209-A, 210, 210-A, 210-B, 210-C, 211, 211-A or 213, the
27 minimum amount at which bail may be set is \$2,000. Bail set pursuant to this section
28 must be paid in full in cash without the use of a bond or surety.

29 **SUMMARY**

30 This bill requires a minimum cash bail for defendants charged with certain crimes
31 under the Maine Revised Statutes, Title 17-A. The bill requires a minimum cash bail of
32 \$4,000 for a charge of assault under section 207, domestic violence assault under section
33 207-A, aggravated assault under section 208, elevated aggravated assault under section
34 208-B or elevated aggravated assault on a pregnant person under section 208-C. The bill
35 requires a minimum cash bail of \$2,000 for a charge of criminal threatening under section
36 209, domestic violence criminal threatening under section 209-A, terrorizing under
37 section 210, stalking under section 210-A, domestic violence terrorizing under section
38 210-B, domestic violence stalking under section 210-C, reckless conduct under section
39 211, domestic violence reckless conduct under section 211-A or aggravated reckless
40 conduct under section 213.

1 The bill provides that a defendant who is released on bail on a charge of a violation of
2 Title 17-A, section 207, 207-A, 208, 208-B, 208-C, 209, 209-A, 210, 210-A, 210-B,
3 210-C, 211, 211-A or 213 must be required to participate in an electronic monitoring
4 program, if an electronic monitoring program is available, and must be required to pay
5 the full cost of participation in that program.

6 The bill requires bail commissioners and judicial officers when setting preconviction
7 bail for a defendant for an alleged violation of Title 17-A, section 207, 207-A, 208,
8 208-B, 208-C, 209, 209-A, 210, 210-A, 210-B, 210-C, 211, 211-A or 213, when feasible,
9 to obtain information from the victim.