

MAINE STATE LEGISLATURE

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Date: 4/24/22

(Filing No. S-607)

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STATE OF MAINE
SENATE
130TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 612,
L.D. 844, "An Act To Examine and Amend the Conditions of Release and Probation"

Amend the amendment by striking out all of section 2 and inserting the following:

Sec. 2. 15 MRSA §1026, sub-§3, ¶A, as amended by PL 2021, c. 397, §§2 and 3,
is further amended to read:

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

- (1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure the appearance of the defendant at the time and place required, that the defendant will refrain from any new criminal conduct, the integrity of the judicial process and the safety of others in the community. When it is feasible to do so, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may interview the designated person or organization to ensure satisfaction of both the willingness and ability required. The designated person or organization shall agree to notify immediately the judicial officer of any violation of release by the defendant;
- ~~(2) Maintain employment or, if unemployed, actively seek employment;~~
- ~~(3) Maintain or commence an educational program;~~

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- 1 (4) Abide by specified restrictions on personal associations, place of abode or
2 travel;
- 3 (5) Avoid all contact with a victim of the alleged crime, with a potential witness
4 regarding the alleged crime or with any other family or household members of the
5 victim or the defendant or to contact those individuals only at certain times or under
6 certain conditions;
- 7 ~~(6) Report on a regular basis to a designated law enforcement agency or other~~
8 ~~governmental agency;~~
- 9 (7) Comply with a specified curfew;
- 10 (8) Refrain from possessing a firearm or other dangerous weapon;
- 11 (9) Refrain from the ~~possession, use or~~ excessive use of alcohol and from any use
12 of illegal drugs. A condition under this subparagraph may be imposed only upon
13 the presentation to the judicial officer of specific facts demonstrating the need for
14 such condition. A condition requiring that the defendant refrain from possession or
15 any use of alcohol may be imposed only if the defendant is a participant in a
16 specialty court docket under Title 4, chapter 8, 8-A or 8-B, or any other specialty
17 docket established by the Judicial Department, or by agreement of the parties as
18 part of a deferred disposition under Title 17-A, section 1902;
- 19 (9-A) Submit to:
- 20 (a) A random search for possession ~~or use~~ prohibited by a condition imposed
21 under subparagraph (8);
- 22 (a-1) A random search for possession or use prohibited by a condition imposed
23 under subparagraph (9) if the defendant is a participant in a specialty court
24 docket under Title 4, chapter 8, 8-A or 8-B, or any other specialty docket
25 established by the Judicial Department, or by agreement of the parties as part
26 of a deferred disposition under Title 17-A, section 1902; or
- 27 (b) A search upon articulable suspicion for possession ~~or use~~ prohibited by a
28 condition imposed under subparagraph (8) or excessive use imposed under
29 subparagraph (9);
- 30 (10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter
31 and remain, as a voluntary patient, in a specified institution when required for that
32 purpose;
- 33 (10-A) Enter and remain in a long-term residential facility for the treatment of
34 substance use disorder;
- 35 (11) Execute an agreement to forfeit, in the event of noncompliance, such
36 designated property, including money, as is reasonably necessary to ensure the
37 appearance of the defendant at the time and place required, to ensure that the
38 defendant will refrain from any new criminal conduct, to ensure the integrity of the
39 judicial process and to ensure the safety of others in the community and post with
40 an appropriate court such evidence of ownership of the property or such percentage
41 of the money as the judicial officer specifies;

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- 1 (12) Execute a bail bond with sureties in such amount as is reasonably necessary
- 2 to ensure the appearance of the defendant at the time and place required, to ensure
- 3 that the defendant will refrain from any new criminal conduct, to ensure the
- 4 integrity of the judicial process and to ensure the safety of others in the community;
- 5 ~~(13) Return to custody for specified hours following release for employment,~~
- 6 ~~schooling or other limited purposes;~~
- 7 (15) Notify the court of any changes of address ~~or employment;~~
- 8 ~~(16) Provide to the court the name, address and telephone number of a designated~~
- 9 ~~person or organization that will know the defendant's whereabouts at all times;~~
- 10 ~~(17) Inform any law enforcement officer of the defendant's condition of release if~~
- 11 ~~the defendant is subsequently arrested or summonsed for new criminal conduct;~~
- 12 (18) Satisfy any other condition that is reasonably necessary to ensure the
- 13 appearance of the defendant at the time and place required, to ensure that the
- 14 defendant will refrain from any new criminal conduct, to ensure the integrity of the
- 15 judicial process and to ensure the safety of others in the community; and
- 16 (19) Participate in an electronic monitoring program, if available.'

17 Amend the amendment by striking out all of section 6 and inserting the following:

18 **'Sec. 6. 17-A MRSA §1807, sub-§2,** as amended by PL 2021, c. 174, §§3 and 4, is
19 further amended to read:

20 **2. Specific conditions of probation authorized.** As a condition of probation, the
21 court in its sentence may require the person to:

22 A. ~~Support the person's dependents and to meet the person's family responsibilities~~
23 Comply with spousal support and child support orders;

24 B. Make restitution pursuant to chapter 69 to each victim of the person's crime, or to
25 the county where the offense is prosecuted if the identity of the victim cannot be
26 ascertained or if the victim voluntarily refuses the restitution. If the court orders as a
27 condition of probation that the person forfeit and pay a specific amount of restitution,
28 that order, as a matter of law, also constitutes the imposition of restitution pursuant to
29 chapter 69 as a sentencing alternative and an additional order regarding restitution is
30 unnecessary;

31 C. Pursue and maintain ~~approved~~ employment or an ~~approved~~ occupation;

32 D. Undergo, as an outpatient, available medical or psychiatric treatment, or to enter
33 and remain, as a voluntary patient, in a specified institution when required for that
34 purpose. ~~Failure~~ Except with regard to participation in sex offender treatment, failure
35 to comply with this condition is not considered only as a violation of probation and
36 may not, in itself, authorize involuntary treatment or hospitalization;

37 D-1. Complete a certified domestic violence intervention program. The court may not
38 order and the State may not pay for the person to attend a domestic violence
39 intervention program unless the program is certified under Title 19-A, section 4014;

40 E. Pursue ~~a prescribed secular course of study~~ an educational program or vocational
41 training;

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- 1 F. Refrain from frequenting specified places or consorting with specified persons;
- 2 G. Refrain from possessing any firearm or other dangerous weapon;
- 3 H. Remain within the ~~jurisdiction of the court~~ State, unless permission to leave
- 4 temporarily is granted in writing by the person's probation officer, and to notify the
- 5 probation officer of any change in the person's address or employment;
- 6 I. Refrain from illegal drug use and ~~use of~~ excessive use of alcohol;
- 7 J. Report as directed to the court or the person's probation officer, to answer all
- 8 reasonable inquiries by the probation officer and to permit the probation officer to visit
- 9 at reasonable times at the person's home or elsewhere;
- 10 ~~K. Pay any monetary penalty imposed by the court as part of the sentence;~~
- 11 L. Perform specified work for the benefit of the State, a county, a municipality, a
- 12 school administrative district, other public entity or a charitable institution;
- 13 M. Participate in an electronic monitoring program, if available; or
- 14 N. Satisfy any conditions reasonably related to the rehabilitation of the person or the
- 15 public safety or security.'

16 Amend the amendment by striking out all of section 9 and inserting the following:

17 **'Sec. 9. Appropriations and allocations.** The following appropriations and
18 allocations are made.

19 **JUDICIAL DEPARTMENT**

20 **Courts - Supreme, Superior and District 0063**

21 Initiative: Provides one-time funding for increased technology costs associated with
22 revising forms and updating applications.

23 GENERAL FUND	2021-22	2022-23
24 All Other	\$0	\$40,000
25		
26 GENERAL FUND TOTAL	\$0	\$40,000

27
28 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or
29 section number to read consecutively.

30 **SUMMARY**

31 This amendment reduces the appropriation for increased technology costs to \$40,000
32 and moves it to the fiscal year ending June 30, 2023.

33 This amendment also changes the bill to incorporate changes made by Public Law
34 2021, chapter 174 and chapter 397 in order to avoid conflicts.

35 **SPONSORED BY:** 

36 (Senator BREEN, C.)

37 **COUNTY: Cumberland**

FISCAL NOTE REQUIRED
(See attached)

SENATE AMENDMENT



130th MAINE LEGISLATURE

LD 844

LR 1110(04)

An Act To Examine and Amend the Conditions of Release and Probation

Fiscal Note for Senate Amendment "A" to Committee Amendment "A" (S-601)

Sponsor: Sen. Breen of Cumberland

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	(\$204,700)	\$40,000	\$0	\$0
Appropriations/Allocations				
General Fund	(\$204,700)	\$40,000	\$0	\$0

Fiscal Detail and Notes

This amendment eliminates the fiscal year 2021-22 General Fund appropriation and adds a one-time General Fund appropriation to the Judicial Department of \$40,000 in fiscal year 2022-23 for increased technology costs associated with revising forms and updating applications as a result of changing probation requirements.