

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 1134

H.P. 812

House of Representatives, March 22, 2021

**An Act To Amend the Maine Bail Code Regarding Certain
Conditions of Release and the Maine Criminal Code Regarding
Warrantless Arrests**

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.

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

2 **Sec. 1. 15 MRSA §1092, sub-§1, ¶A**, as enacted by PL 2003, c. 452, Pt. H, §3 and
3 affected by Pt. X, §2, is amended to read:

4 A. A Class E crime if the condition is specified in section 1026, subsection 3,
5 paragraph A, subparagraph (4), (5), (8), (10-A), (13) or (19); or

6 **Sec. 2. 15 MRSA §1092, sub-§1-A** is enacted to read:

7 **1-A. Violation of a condition of release for certain crimes.** A defendant charged
8 with a crime against a family or household member, as defined in Title 19-A, section 4002,
9 subsection 4, a sexual assault under Title 17-A, chapter 11 or a violation of a protective
10 order, as specified in Title 5, section 4659; Title 15, section 321, subsection 6; Title 17-A,
11 section 506-B; or Title 19-A, section 4011 who has been granted preconviction bail and
12 who, in fact, violates a condition of release is guilty of:

13 A. A Class E crime; or

14 B. A Class C crime if the underlying crime was punishable by a maximum period of
15 imprisonment of one year or more and the condition of release violated is one specified
16 in section 1026, subsection 3, paragraph A, subparagraph (5), (8) or (13).

17 **Sec. 3. 15 MRSA §1092, sub-§2**, as enacted by PL 2003, c. 452, Pt. H, §3 and
18 affected by Pt. X, §2, is amended to read:

19 **2. Affirmative defense.** It is an affirmative defense to prosecution under ~~subsection~~
20 ~~subsections 1 and 1-A~~ that the violation resulted from just cause.

21 **Sec. 4. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 2017, c. 148, §3, is further
22 amended to read:

23 A. Any person who the officer has probable cause to believe has committed or is
24 committing:

25 (1) Murder;

26 (2) Any Class A, Class B or Class C crime;

27 (3) Assault while hunting;

28 ~~(4) Any offense defined in chapter 45;~~

29 (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably
30 believes that the person may cause injury to others unless immediately arrested;

31 (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief,
32 obstructing the report of a crime or injury or reckless conduct if the officer
33 reasonably believes that the person and the victim are family or household
34 members, as defined in Title 19-A, section 4002, subsection 4;

35 (5-B) Domestic violence assault, domestic violence criminal threatening, domestic
36 violence terrorizing, domestic violence stalking or domestic violence reckless
37 conduct;

38 ~~(6) Theft as defined in section 357, when the value of the services is \$1,000 or less~~
39 ~~if the officer reasonably believes that the person will not be apprehended unless~~
40 ~~immediately arrested;~~

- 1 (7) ~~Forgery, if the officer reasonably believes that the person will not be~~
2 ~~apprehended unless immediately arrested;~~
- 3 (8) ~~Negotiating a worthless instrument if the officer reasonably believes that the~~
4 ~~person will not be apprehended unless immediately arrested;~~
- 5 (9) A violation of a condition of probation when requested by a probation officer
6 or juvenile community corrections officer;
- 7 (10) Violation of a condition of release in violation of Title 15, section 1026,
8 subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051,
9 subsection 2; and Title 15, section 1092;
- 10 ~~(11) Theft involving a detention under Title 17, section 3521;~~
- 11 (12) Harassment, as set forth in section 506-A;
- 12 (13) Violation of a protection order, as specified in Title 5, section 4659,
13 subsection 2; Title 15, section 321, subsection 6; Title 17-A, section 506-B; former
14 Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title
15 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;
- 16 (14) A violation of a sex offender registration provision under Title 34-A, chapter
17 15;
- 18 (15) A violation of a requirement of administrative release when requested by the
19 attorney for the State and the underlying crime was a Class C crime;
- 20 (16) A violation of a condition of supervised release for sex offenders when
21 requested by a probation officer;
- 22 (17) A violation of a court-imposed deferment requirement of a deferred
23 disposition when requested by the attorney for the State;
- 24 (18) A violation of a condition of release as provided in Title 15, section 3203-A,
25 subsection 9;
- 26 (19) A violation of a condition of supervised community confinement granted
27 pursuant to Title 34-A, section 3036-A when requested by a probation officer;
- 28 (20) A violation of a condition of placement on community reintegration status
29 granted pursuant to Title 34-A, section 3810 and former section 4112 when
30 requested by a juvenile community corrections officer;
- 31 (21) A violation of a condition of furlough or other rehabilitative program
32 authorized under Title 34-A, section 3035 when requested by a probation officer
33 or juvenile community corrections officer;
- 34 (22) A violation of preconviction or post-conviction bail pursuant to Title 15,
35 section 1095, subsection 2 or section 1098, subsection 2 upon request of the
36 attorney for the State;
- 37 ~~(23) Failure to appear in violation of Title 15, section 1091, subsection 1,~~
38 ~~paragraph A;~~
- 39 (24) A Class D or Class E crime committed while released on preconviction or
40 post-conviction bail; or

1 (25) A violation of a condition of release from a community confinement
2 monitoring program pursuant to Title 30-A, section 1659-A; and

3 **Sec. 5. 17-A MRSA §15, sub-§1, ¶B**, as repealed and replaced by PL 1995, c. 680,
4 §3, is amended to read:

5 B. Any person who has committed or is committing in the officer's presence any Class
6 D or Class E crime except as provided in subsection 1-A.

7 **Sec. 6. 17-A MRSA §15, sub-§1-A** is enacted to read:

8 **1-A. Summons for certain Class D or Class E crimes.** A law enforcement officer
9 who has probable cause to believe a person has committed or is committing a Class D or
10 Class E crime, except for those listed in subsection 1, paragraph A, may not perform a
11 warrantless arrest when it is feasible to issue a summons.

12 SUMMARY

13 This bill amends the Maine Bail Code by specifying certain conditions of a violation
14 of a condition of release that remain a Class E crime and specifying that certain violations
15 of conditions of release, including crimes against a family or household member, sexual
16 assault or violations of protective orders, are Class E crimes, unless the underlying crime
17 was punishable by a maximum period of imprisonment of one year or more and certain
18 conditions of release are violated, in which case it is a Class C crime. This bill also amends
19 the provisions in the Maine Criminal Code involving situations when a law enforcement
20 officer may make a warrantless arrest and prohibits a warrantless arrest for certain Class D
21 or Class E crimes when it is feasible to issue a summons.