

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
127<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON JUDICIARY**

May 2016

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# STATE OF MAINE

127<sup>TH</sup> LEGISLATURE

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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 127<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

*CARRIED OVER*..... *carried over to a subsequent session of the Legislature*  
*CON RES XXX*..... *chapter # of constitutional resolution passed by both houses*  
*CONF CMTE UNABLE TO AGREE*..... *Committee of Conference unable to agree; legislation died*  
*DIED BETWEEN HOUSES*..... *House & Senate disagreed; legislation died*  
*DIED IN CONCURRENCE*..... *defeated in each house, but on different motions; legislation died*  
*DIED ON ADJOURNMENT*..... *action incomplete when session ended; legislation died*  
*EMERGENCY*..... *enacted law takes effect sooner than 90 days after session adjournment*  
*FAILED, EMERGENCY ENACTMENT or PASSAGE*..... *emergency failed to receive required 2/3 vote*  
*FAILED, ENACTMENT or FINAL PASSAGE*..... *failed to receive final majority vote*  
*FAILED, MANDATE ENACTMENT*..... *legislation proposing local mandate failed required 2/3 vote*  
*HELD BY GOVERNOR*..... *Governor has not signed; final disposition to be determined at subsequent session*  
*LEAVE TO WITHDRAW*..... *sponsor's request to withdraw legislation granted*  
*NOT PROPERLY BEFORE THE BODY*..... *ruled out of order by the presiding officer; legislation died*  
*INDEF PP*..... *indefinitely postponed; legislation died*  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... *ought-not-to-pass report accepted; legislation died*  
*P&S XXX*..... *chapter # of enacted private & special law*  
*PUBLIC XXX*..... *chapter # of enacted public law*  
*RESOLVE XXX*..... *chapter # of finally passed resolve*  
*VETO SUSTAINED*..... *Legislature failed to override Governor's veto*

The effective date for non-emergency legislation enacted in the First Regular Session of the 127<sup>th</sup> Legislature is July 29, 2016. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

*Joint Standing Committee on Judiciary*

**LD 1639**

**An Act To Implement the Recommendations of the Intergovernmental  
Pretrial Justice Reform Task Force**

**PUBLIC 436**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM

S-453

This bill was reported by the committee pursuant to joint order, S.P. 650 and then referred back to the committee for processing in the normal course.

This bill implements the recommendations of the Intergovernmental Pretrial Justice Reform Task Force.

The bill does the following:

1. It specifies that a bail commissioner may not set preconviction bail for crimes involving domestic violence without specifying a court date within five weeks of the date of the bail order.
2. It specifies that, notwithstanding the Maine Revised Statutes, Title 15, section 1026, subsection 3, paragraph A, subparagraph (9-A), a bail commissioner may not impose as a condition of preconviction bail that a defendant submit to random search with respect to a prohibition on the possession, use or excessive use of alcohol or illegal drugs.
3. It authorizes a properly trained county jail employee to prepare and execute a personal recognizance bond when a bail commissioner orders bail.
4. It eliminates the availability of unsecured bail bonds for bail.
5. It amends standards for release on preconviction bail to include language in the conditions that specifies that a defendant refrain from the possession of alcohol and illegal drugs, in addition to the current condition that prohibits use or excessive use of alcohol or any drugs. The bill also specifies that this condition be imposed only if specific facts are provided to the judicial officer to support the imposition of the condition.
6. It adds to the standards for release on preconviction bail language that a defendant be required to submit to a random search or a search upon articulable suspicion for possession of firearms or other dangerous weapons or possession or use of alcohol or illegal drugs.
7. It amends post-conviction bail to specify standards for bail with respect to a motion to revoke probation. A judge or justice may deny or grant bail and, in determining whether to admit the defendant to bail, the judge or justice shall consider the nature of the circumstances of the crime for which the defendant was sentenced to probation and the nature of the alleged violation of and any records of prior violations of probation.
8. It repeals Title 15, section 1073-A, which provides that if a defendant violated a condition of bail then the person who posted the bail or the surety must have the bond released or all of the money returned, unless the person previously acted as surety for the same defendant and the defendant previously failed to comply with conditions.
9. It requires that in an initial proceeding on a probation violation for which a person is committed without bail pending hearing, the date of the hearing must be set no later than 45 days from the date of the initial appearance unless otherwise ordered by the court.
10. It allows the court to suspend all or part of the minimum mandatory fine for assault, certain drug crimes and operating a motor vehicle while a person's license is suspended or revoked, and it lists criteria that a court may

## *Joint Standing Committee on Judiciary*

consider in making the decision to suspend the fine.

11. It amends the amount of payment for community service that may be credited against the unpaid fine for offenders who have been sentenced to pay a fine and who have defaulted from no less than \$25 for every 8 hours to a rate equal to the current hourly minimum wage.

12. It specifies that bail commissioners' fees must be paid for by the Judicial Department, instead of being paid for by the defendant seeking bail or by a county fund that may be created for defendants who cannot pay the fee.

13. It specifies that if a defendant is released on preconviction bail and the judicial officer imposes a condition that the person remain in the custody of a designated organization agreeing to supervise the defendant, the State is required to reimburse the designated organization for the costs of the supervision of the defendant.

### **Committee Amendment "A" (S-453)**

This amendment removes from the bill the requirement that the Judicial Branch pay all bail commissioner fees. The Chief Justice of the Maine Supreme Judicial Court has committed to establishing a working group to address the challenges of the current bail system, including the issue of bail commissioner fees.

This amendment deletes from the bill the proposal that jail employees can prepare and execute a personal recognizance bond when a bail commissioner orders bail.

This amendment deletes from the bill the language eliminating the use of unsecured appearance bonds, therefore retaining the possibility that unsecured appearance bonds can be used.

This amendment deletes from the bill the requirement that the State pay the costs of supervision of a defendant when a defendant is released pretrial under the supervision of an organization that provides supervision and ensures the appearance of the defendant, and instead requires each county to maintain a pretrial release program or contract with an organization to supervise defendants subject to a pretrial release condition using the community corrections funds provided from the County Jail Operations Fund. The Supreme Judicial Court may adopt rules or orders that establish the requirements of the programs to ensure that defendants have substantially equal access to pretrial and conditional release across the State.

This amendment expands the opportunity for community service work for credit against unpaid fines to include Class C crime convictions. Current law allows public service work for credit against unpaid fines only for Class D and Class E crimes.

### **Enacted Law Summary**

Public Law 2015, chapter 436 implements the following recommendations of the Intergovernmental Pretrial Justice Reform Task Force.

1. It specifies that a bail commissioner may not set preconviction bail for crimes involving domestic violence without specifying a court date within five weeks of the date of the bail order.
2. It specifies that, notwithstanding the Maine Revised Statutes, Title 15, section 1026, subsection 3, paragraph A, subparagraph (9-A), a bail commissioner may not impose as a condition of preconviction bail that a defendant submit to random search with respect to a prohibition on the possession, use or excessive use of alcohol or illegal drugs.
3. It amends standards for release on preconviction bail to include language in the conditions that specifies that a defendant refrain from the possession of alcohol and illegal drugs, in addition to the current condition that prohibits use or excessive use of alcohol or any drugs. The bill also specifies that this condition be imposed only if specific facts are provided to the judicial officer to support the imposition of the condition.

## *Joint Standing Committee on Judiciary*

4. It adds to the standards for release on preconviction bail language that a defendant be required to submit to a random search for possession possession or use of alcohol or illegal drugs.
5. It amends post-conviction bail to specify standards for bail with respect to a motion to revoke probation. A judge or justice may deny or grant bail and, in determining whether to admit the defendant to bail, the judge or justice shall consider the nature of the circumstances of the crime for which the defendant was sentenced to probation and the nature of the alleged violation of and any records of prior violations of probation.
6. It repeals Title 15, section 1073-A, which provides that if a defendant violated a condition of bail then the person who posted the bail or the surety must have the bond released or all of the money returned, unless the person previously acted as surety for the same defendant and the defendant previously failed to comply with conditions.
7. It requires that in an initial proceeding on a probation violation for which a person is committed without bail pending hearing, the date of the hearing must be set no later than 45 days from the date of the initial appearance unless otherwise ordered by the court.
8. It allows the court to suspend all or part of the minimum mandatory fine for assault, certain drug crimes and operating a motor vehicle while a person's license is suspended or revoked, and it lists criteria that a court may consider in making the decision to suspend the fine.
9. It amends the amount of payment for community service that may be credited against the unpaid fine for offenders who have been sentenced to pay a fine and who have defaulted from no less than \$25 for every 8 hours to a rate equal to the current hourly minimum wage. It expands the opportunity for community service work for credit against unpaid fines to include Class C crime convictions. Current law allows public service work for credit against unpaid fines only for Class D and Class E crimes.
10. It requires counties to use at least a portion of the community corrections funds they currently receive under the Maine Revised Statutes, Title 34-A, section 1210-D to provide pretrial and conditional release programs when imposed as a condition of pretrial bail. The programs may be conducted by the counties or under a contract with one or more organizations that provide such supervision. The Supreme Judicial Court may adopt rules or orders that establish the requirements of the programs to ensure that defendants have substantially equal access to pretrial and conditional release across the State.

**LD 1642     An Act Regarding Stolen Valor**

**PUBLIC 437**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THIBODEAU M	OTP-AM	S-454

Public Law 2015, chapter 21 amended the law governing theft by deception to specifically include as deception false claims of being a veteran or a member of the Armed Forces of the United States or a state military force. This bill specifies instead that the intentional creation or reinforcement of a false impression that a person is such a veteran or member constitutes deception under this law. This bill also specifies that any fine imposed on such a person must be deposited in the Maine Military Family Relief Fund.

### **Committee Amendment "A" (S-454)**

This amendment incorporates a fiscal note.

### **Enacted Law Summary**

Public Law 2015, chapter 437 amends the law governing theft by deception to specifically include as deception the