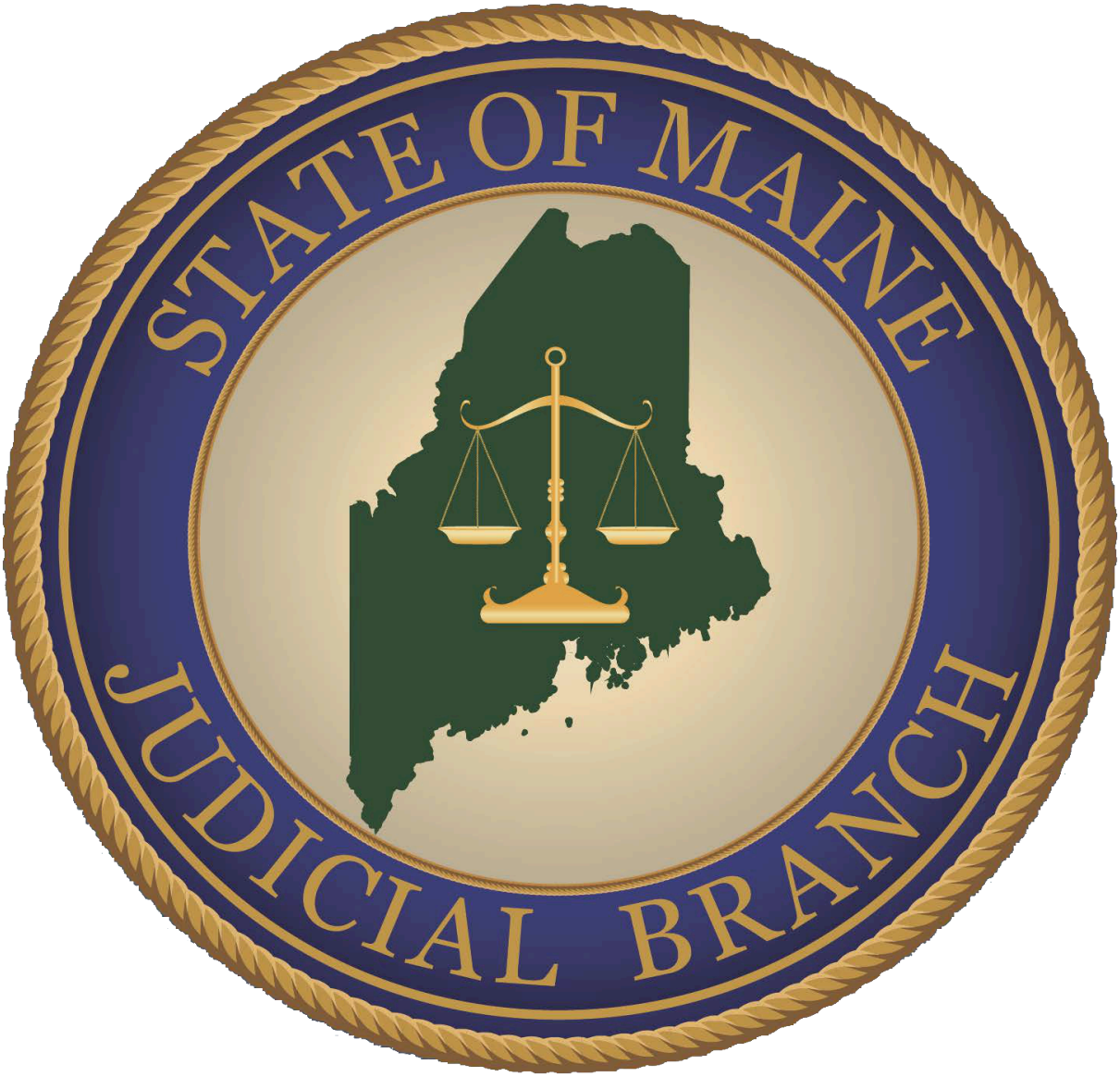

STATE OF MAINE BAIL MANUAL 2018

Maine Judicial Branch
Administrative Office of the Courts
PO Box 4820
Portland, Maine 04112

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CHAPTER ONE
MAINE'S COURT SYSTEM

Overall Court Structure

The State of Maine has a single criminal court system. Unlike many other states where each county or municipality runs its own courts that have their own sets of rules, procedures, regulations, and even laws, Maine's criminal court system is governed by a single governmental entity—the Maine Judicial Branch. This is referred to as a unified court system.

Maine has three levels of courts in our unified system: the District Court, the Superior Court, and the Supreme Judicial Court. The Chief Justice of the Supreme Judicial Court is the head of the entire system. The Superior Court and the District Court each have a chief justice and a chief judge, respectively, who are responsible for the day-to-day operations and scheduling of those courts. The chief justices and chief judge are supported by the State Court Administrator and other management employees who work in the Administrative Office of the Courts to provide administrative support, policy assistance, and research for the justices and judges.

The District Court

The District Court is a single statewide court and is identified by the city or town in which the courthouse sits. The District Court has thirty-nine judges. This court hears civil, criminal, and family matters. Civil suits requesting monetary damages, landlord/tenant disputes, foreclosure actions, family matters, protective custody, and involuntary commitment applications are examples of civil cases commonly brought in the District Court.

There is also a Family Division within the District Court that has jurisdiction over family matters, including divorce, separation, annulment, child custody, child support, paternity, grandparent visitation rights, and emancipation. In addition to the judges, there are eight family law magistrates. A family law magistrate is a judicial officer

who has some of the powers of a judge and works to resolve domestic relations cases.

The District Court also hears cases involving civil violations such as zoning violations or liquor law violations. In addition, the court hears all juvenile matters and contested traffic infraction cases. Small claims court is a special session of the District Court, in which a plaintiff may seek a judgment of $6,000 or less through a simplified and informal process.

Most decisions of the District Court may be directly appealed to the Supreme Judicial Court.

The Superior Court

The Superior Court is a single statewide court and is identified by the name of the county in which the court sits. Aroostook County is the only county that has two locations for the Superior Court. The Superior Court has seventeen justices who have statewide jurisdiction.

Except for family matters, juvenile cases, small claims, evictions, and most civil violations, the Superior Court may hear almost any kind of civil or criminal case that may be brought to trial.

In recent years, judges and justices have been given authority to sit in either the District Court or the Superior Court. Through this "cross assignment," judges and justices are permitted to resolve any matters pending in either type of court. This allows the Judicial Branch to best utilize its judicial resources and to provide for flexibility in scheduling.

Appeals from the Superior Court may be taken to the Supreme Judicial Court.

The Supreme Judicial Court

The Supreme Judicial Court, established in 1820 when Maine separated from Massachusetts, is the State's highest court and the only court of appeal. It has seven justices and is presided over by the Chief Justice, who

is the head of the Judicial Branch. No trials are held in the Supreme Judicial Court.

This court's main job is to decide appeals of civil actions and criminal convictions, and it is the only court of appeals in Maine. The term "Law Court" is used when it is acting in its appellate capacity. The Law Court decides only questions of law, and not questions of fact.[1] Therefore, it does not retry cases, take new evidence, or determine the facts. Parties present written briefs, and sometimes make oral arguments, outlining their respective positions. The justices reflect on the questions presented and issue a written opinion deciding the issues in accordance with the court's view of the law. The opinion explains their reasoning and either vacates or affirms the trial court's decision.

Opinions are published and become binding on all Maine courts. Published opinions are available on the Judicial Branch's website, www.Maine.gov/judicial and may be found in bound form in the Maine Reporter. In some cases, the Law Court issues a memorandum of decision, which is a very brief opinion that states the outcome of the appeal but does not provide the court's reasoning. Memoranda of decision are not published in the Maine Reporter and are not binding on future cases.

The Law Court is mandated to consider most appeals, but it has discretion whether to consider appeals from sentencing and post-conviction matters in criminal cases and appeals from the Workers' Compensation Board. The Law Court also hears appeals from the Probate Courts, which are not part of the state court system.[2]

The term "Supreme Judicial Court" is used when the court is sitting in matters over which it has original jurisdiction or when it is acting in a

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[1] A question of fact is answered by examining the evidence to decide what happened, whereas a question of law is answered by applying legal principles to the facts. In many cases, there are mixed questions of fact and law.

[2] The Probate Courts, established in the Maine Constitution in 1820, are courts with jurisdiction over specialized subject matter, such as estates and trusts, adoptions and name changes, guardianships, and protective proceedings. There are sixteen Probate Courts and judges—one for each county. These judges are elected and work part time. The Probate Courts fall under the jurisdiction of each county, not the state.

supervisory capacity. Examples include issuing advisory opinions to the Governor or Legislature on legal issues of high public importance, overseeing admission to the Bar, disciplining lawyers and judges, and setting the procedural rulemaking authority for all the state's courts.

The Unified Criminal Docket (UCD)

In 2007, the Supreme Judicial Court began the process of creating a Unified Criminal Docket. It combined the criminal dockets in the District and Superior Courts into one. The Unified Criminal Docket (UCD) was adopted statewide in 2015.

At the present time, bail commissioners may occasionally encounter some pre-July 2015 cases that still have the old District Court/Superior Court docket numbers. This is because some old cases are still working their way through the court system. The important thing to keep in mind is that the process for handling criminal cases is the same regardless of the docket number or caption.

CHAPTER TWO
WARRANTS AND WARRANTLESS ARRESTS

Introduction

Generally, a bail commissioner is called to perform his or her duties whenever a person is arrested. A law enforcement officer may arrest a person based upon a warrant issued by the court or based upon probable cause and an exception to the warrant requirement. The type of arrest and the type of warrant will impact the steps taken by a bail commissioner in this process. To perform his or her duties effectively and appropriately, a bail commissioner must understand the process for issuing warrants, the different types of warrants, and how to read a warrant.

Authority to Issue an Arrest Warrant

The legal authority to issue an arrest warrant can be found in various statutes and court rules. The complete language of Rule 4 of the Maine Rules of Unified Criminal Procedure, which governs arrest warrants, is contained in **Appendix A.**

Under Maine law, the following people are authorized to issue arrest warrants: a Superior Court justice, a District Court judge, a duly appointed justice of the peace, and a duly authorized clerk in limited circumstances.[1] Law enforcement officers may *apply* for an arrest warrant, but they do not have the authority to *issue* an arrest warrant.

Types of Arrest Warrants

When a bail commissioner sets bail for a person who has been arrested on a warrant, the first thing that he or she must do is determine the type of warrant. This is important because a bail commissioner is prohibited from setting bail on certain types of warrants, which will be discussed in further detail in Chapters 6-8. Warrants that you may encounter are listed below.

> **Clerk's Warrant.** M.R.U.Crim.P. 4 provides that a clerk, when authorized by a judge, may issue a warrant for the arrest of an individual. If you encounter such a warrant it will be identified as a clerk's warrant. Bail on these warrants will be set by a judge or justice or will be left to the bail commissioner to set.

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[1] 4 M.R.S. §§ 114, 161, 171.

Warrant on Affidavit. This type of warrant is issued by a court after a law enforcement officer drafts and signs, under oath, an affidavit setting forth the facts that the officer believes constitute probable that a crime has occurred. The court must review the affidavit to ensure that its contents justify the issuance of the warrant.

When issuing an arrest warrant, a court has three options regarding bail. The court may set both the bail type and amount as well as any bail conditions to be imposed. If this occurs, the bail commissioner must follow the order of the court and execute the bail documents in accordance with the court's order. Alternatively, the court may issue the arrest warrant setting the bail amount but leaving it up to the bail commissioner to determine the terms and conditions of bail. Sometimes the court will note "bail commissioner to set bail." In other instances, the warrant is silent regarding bail. In these instances, it is up to the bail commissioner to exercise his or her due diligence to first determine whether he or she is permitted to set bail, and then, if allowed, to set the bail type, amount and conditions.

Warrant on Indictment. This is a warrant issued by the court after the case has been presented to the grand jury. If the grand jury votes to indict a person, the grand jury notifies the court that they have found probable cause to believe that the person committed a crime. The charging document, called the indictment, is filed with the court. In this scenario, the prosecuting attorney can request that the court issue a warrant and that bail be set in a certain type or amount and/or request certain conditions be imposed as part of bail. Again, the court reviews the request before issuing the warrant. Like a warrant on affidavit, the court can either set bail or leave the setting of bail and/or conditions to the bail commissioner.

Failure to Appear Warrant (FTA). This warrant is issued by a court after a person is summonsed or ordered to appear in court and he or she has failed to appear. In these cases, the court often sets the bail type, amount, and the conditions. Sometimes, the court will add restrictions to the bail such as prohibiting a third party from providing the money for the bail or requiring that the defendant post cash bail and sign a pretrial supervision contract. If the bail or conditions are set by the court, the bail

commissioner must follow the court's order. On occasion, the warrant will be silent on the type or amount of bail. In those situations, it is up to the bail commissioner to set bail and/or any conditions.

Failure To Appear Warrant for a Failure to Pay Fine (FTA/FTPF). A similar but different type of warrant is issued after a person is convicted of a crime, is ordered to appear in court to explain why he or she has failed to pay his or her fine and fails to appear for the hearing. In these cases, the court will issue a warrant. Sometimes the court sets a bail amount in the amount equal to the fine due, or, if the fine still owed is substantial, the court will set bail for a portion of the amount due and then require that the individual return to court to establish a new payment plan for the remaining balance. Often, the court will prohibit a third person from posting cash for the defendant in these types of cases.

Failure To Appear for Failure to Pay Restitution Warrant (FTA/FTPR). Like the FTA/FTPF, a court can issue an arrest warrant when a person fails to appear in court for a hearing on why they have not paid their court ordered restitution. The type and amount of bail the court sets in these cases varies depending on the amount of restitution owed and the length of time that has passed since the original restitution order was issued.

Warrant for a Violation of a Condition of Release (Vio/Bail). When a defendant is alleged to have violated a condition of his or her bail, the District Attorney's Office often files a motion to revoke the defendant's bail. When the State files the motion, a warrant may issue. This warrant is issued by a court if a person who has been granted pre-conviction or post-conviction bail is alleged to have violated a condition of that bail.

Warrant for a Violation of a Condition of Probation (PV). This warrant is typically requested by a defendant's probation officer upon an allegation that the person has violated a condition of his or her probation, and the probation officer is requesting that the court revoke the defendant's probation. A bail commissioner will not set bail for this type of warrant, but he or she may execute a bail bond set by the court.

Warrant for A Violation of Administrative Release (Admin. Rel.) Under Maine's Criminal Code, a defendant may be place on

administrative release if they have been convicted of certain Class D or E crimes in title 17-A or certain Class C crimes in title 29-A. During the period of administrative release, conditions, much like probation conditions, can be imposed. If a person then violates those conditions, they are issued a summons to appear in court. If they fail to appear, the court can issue a warrant for their arrest. While the bail statute is silent on whether bail commissioners can set bail in these cases, the statute does provide that the revocation hearing process is governed by the probation revocation statute. As such, bail commissioners should not set bail in these matters but should execute a bail bond if the court has previously set bail.

Warrant for Failure to Pay Child Support (Contempt Warrant). This type of warrant is issued by the court after a hearing in which the court finds that the defendant had the ability to pay child support and intentionally failed to do so. These types of warrants do not have a criminal docket number. Rather they can be identified by a docket number that begins with the letters FM.

When a person is arrested on this type of warrant, the warrant will typically state the amount of child support due and require that the bail posted be sent by the Clerk to the Support Enforcement Division of the Maine Department of Health and Human Services (DHHS). If a bail commissioner is called to bail someone on this type of warrant, they should follow the instructions of the court, bail the individual, and submit all funds to the Clerk of Court who will then docket the matter and forward the funds to DHHS. Do not impose any additional conditions and follow the information contained in the warrant exactly as the Court ordered in the warrant.

Beware. Occasionally, a judge will hold a hearing for failure to pay child support and will issue an order—instead of a warrant—that states that the defendant is to be released upon proof of payment of the amount due. In those instances, a bail commissioner should not set bail or any conditions and the jail official should not require the defendant to post a bond to secure his or her release. If a bail commissioner is presented with this circumstance, he or she should decline to set bail and inform the jail official that the person should be released pursuant to the court's order.

If any questions remain, you should contact the criminal process manager.

"Sealed" Warrants. There will also be times when the court will issue an arrest warrant but order the warrant "sealed" until the defendant is arrested. This process, while not routine, will occur if the court feels that the defendant will flee if he or she becomes aware that a warrant has issued or if the court determines that the facts or circumstances of the case require that the warrant remain confidential until the individual is under arrest. Sometimes a sealed warrant can cause confusion because law enforcement officers, dispatchers, and jail personnel mistakenly believe that the bail commissioner is not entitled to know the facts of the case, the bail, or the conditions. This is incorrect. Upon the execution of the arrest warrant, as an officer of the court, a bail commissioner is entitled to know the facts of the case, the defendant's criminal history, the arresting officer's name and agency, the contents of the warrant, and the court's order concerning bail and bail conditions.

Warrantless Arrests

A police officer may make a warrantless arrest when he or she has probable cause to believe that a person has committed a crime and the officer has an exception to the warrant requirement. Exceptions to the warrant requirement are listed in the Maine Criminal Code.[2] Common exceptions include the commission of a crime in the officer's presence, such as operating under the influence; the commission of any Class A, B, or C crime, commonly referred to as felonies; and the commission of certain crimes such as a domestic violence assault or a violation of a protection order.

When a warrantless arrest has been made, all decisions related to the setting of bail are made by the bail commissioner. A law enforcement officer may suggest or request a particular kind of bail or certain conditions, but the bail commissioner has sole discretion to determine the type of bail, the amount, and any conditions. Likewise, a bail commissioner may run into a situation where an officer or another individual asks you to set bail in a case where you are prohibited from doing so. If this occurs, politely decline and follow the law. A

[2] 17-A M.R.S. § 15.

further discussion on when a bail commissioner is prohibited from setting bail is found in Chapters 4 and 7.

It is imperative that as a bail commissioner you understand that at no time should you modify, change, alter, or eliminate the bail amounts or the conditions set by the court. Likewise, there may be times when a corrections officer, victim, prosecuting attorney, law enforcement officer, family member, friend of the defendant, or a lawyer asks you to change the bail amount or the conditions of bail set by the court. This is not permitted. 15 M.R.S. § 1023(4)(B).

In a similar vein, the Chief Judge of the District Court has determined that a bail commissioner may not change the bail set by another bail commissioner. If you learn of additional facts that you believe warrant a change, or if you learn additional facts that lead you to believe that it is not legal for a bail commissioner to set bail in the case, you should contact the bail commissioner who originally set the bail and discuss the situation with him or her.

For example, bail commissioner A is called at 2 am to set a bail on a domestic violence charge, Class D. At that time, bail commissioner A is told that the defendant has no prior criminal record and is not out on bail. She sets a cash bail at $200 with a condition of no contact, direct or indirect, with the victim. Later, when the Defendant has made arrangements to post bail, bail commissioner B goes to the jail to execute the bail. While there, bail Commissioner B learns that the Defendant is currently out on bail for an aggravated assault, Class B, against the same victim. Bail commissioner B knows that under Maine law, he is prohibited from bailing the Defendant.

In this situation, bail commissioner B should decline to execute the bail, notify jail personnel of the reasons for his decision and then contact bail commissioner A and explain why he declined to execute the bail.

If other persons contact you requesting that you change a bail previously set by another bail commissioner, you should not do so unless you have verified that the law requires the change and obtained the approval of the other commissioner. If you can't reach the other bail commissioner, or if you have questions concerning this process, you should contact the Manager of Criminal Process for advice.

Finally, there may be occasions where an out-of-state or federal law enforcement officer asks the bail commissioner to refuse to set bail, or set a high bail, in a case the officer is aware of or involved in. The commissioner's duty is to follow Maine law, Maine court orders and respond accordingly. In these cases you are advised to contact the Manager of Criminal Process for advice.

The Electronic Arrest Warrant System

In 2011, Maine's system for issuing, recording, and recalling arrest warrants was converted from a partially paper and partially electronic system to a fully automated electronic system. The Maine Judicial Branch is responsible for maintaining and operating a warrant docket management system for the generation, storage, retention, and recall of all electronic arrest warrants issued by the courts. It works in close cooperation with the Maine State Police to ensure the timeliness and accuracy of this system.

When a court issues a bench warrant, the warrant must be sent electronically by the court to the statewide warrant management system administered by the Maine State Police. This warrant system is one part of the statewide electronic law enforcement information system, often referred to as METRO. METRO contains the information on warrants issued by the Maine Judicial Branch. It also contains information from seventeen other databases, including but not limited to

- motor vehicle records from the Bureau of Motor Vehicles,
- protection from abuse orders,
- stolen property data records,
- missing persons records,
- criminal history records, and
- other law enforcement related information.

The METRO system is electronically linked to the National Crime Information Center (NCIC). The Federal Bureau of Investigation (FBI) operates NCIC. It links electronic records from courts and law enforcement agencies nationwide. Because the FBI accepts information from law enforcement agencies nationwide, it requires that all electronically transmitted arrest warrant information follow certain codes and formats.

When a defendant is arrested on a warrant, the law enforcement officer is required to verify the identity of the defendant named in the warrant, send an electronic return of service (notification to the court that the person has been arrested), and remove the warrant from the system.

When a bail commissioner is called to execute bail on a person who has been arrested on a warrant, he or she should request a copy of the electronic warrant before deciding bail. Commissioners should not assume that the law enforcement officer or emergency communication personnel have completely or accurately conveyed the number of warrants or the terms of any warrant, including any bail or bail conditions set by the court. It is best practice for a bail commissioner to personally review each charge and to inquire if an electronic records check has been completed to ensure that there are no other outstanding warrants or changes.

Generally, when a person is arrested on a warrant, the law enforcement officer or jail staff can print a paper copy of the electronic warrant. Jail staff often place this printed copy into a file that is accessible to bail commissioners. When a bail commissioner receives a copy of the warrant, he or she may use it only for bail purposes and must return it to the person or agency that provided the copy.

As an officer of the court, bail commissioners have been granted access to confidential information in these warrants that are not otherwise available to the public. As you may recall from your CJIS training, federal and state law prohibit you from releasing information, in any form, to any person who is not entitled to have the information. This means you cannot discuss the contents of an arrest warrant with persons not directly involved in the case. This includes your neighbors, friends, family members, friends or reporters or other members of the public. It also means that once you are finished processing the bail, you must return all copies of the warrant to the appropriate law enforcement official or to the jail file. At no time should you make copies of or retain copies of warrants from the cases you have been involved in nor should you ever attach a copy of the warrant to the bail bond.

Definitions

Electronic warrants from METRO and NCIC may seem difficult to understand initially. However, all electronic warrants contain entries that use standard words and phrases. A familiarity with these words and phrases will assist you in deciphering the warrant.

ATN—This stands for **arrest tracking number**. Under Maine law, each time a person is arrested, the arresting officer is supposed to obtain a unique ATN for that arrest. The number is assigned to that case and follows the case to completion. ATNs are supposed to be entered on every bail bond by the bail commissioner.

CTN—This stands for **count tracking number**. Like the ATN, each time a person is arrested, each different count or charge in the arrest is given a separate and unique number. For example, a person is arrested for OUI and operating without a license. The OUI would have CTN #1 and the operating without a license would have CTN #2. Each CTN should also be entered on the bail bond by the bail commissioner.

The ATN is used to distinguish one arrest from another in a defendant's criminal file. Likewise, the CTN is used to distinguish one count in the arrest from another count in the same arrest event.

For example, presume that the Biddeford Police arrested the defendant at 3 p.m. on Sunday, May 15, 2017, for domestic violence assault and criminal mischief against his estranged wife and his two children. The officer charges him with three counts of domestic violence assault (one for his wife and one for each of his children) and one count of criminal mischief. The arresting officer requests and is provided both an ATN (one) and CTNs (four) for the incident.

Defendant is released on bail at 7 p.m. He then returns to Biddeford, assaults his new girlfriend, and kicks in her television set. He is again arrested and charged with domestic violence assault, violation of conditions of release, and criminal mischief. The second arresting officer then requests and receives a new ATN (one) and CTN (three).

Our criminal justice system must be able to distinguish between each separate arrest and each separate count of the offense. Without the two different ATNs, a person reviewing these files would not be able to distinguish between the two incidents. Additionally, since the two different offenses of domestic violence and criminal mischief both occurred on the same day in the same town, a person reading the record could easily get confused as to what case they were talking about as well as the outcome of the charges.

There will be occasions when the arresting officer fails to secure an ATN or CTN for an arrest. In those circumstances, the bail commissioner should inform either the arresting officer or the jail staff that the arresting officer or someone in his or her department needs to secure the ATN and CTN so that the information can be entered onto the bail bond.

SBI—This stands for the **State Bureau of Identification**. The SBI is the official repository for Title 17-A (the Maine Criminal Code) and certain Title 29-A (the Maine Motor Vehicle Code) criminal records in Maine. The SBI is part of the Department of Public Safety. Once a case is assigned an ATN and a CTN, basic case information is transmitted by the court or the arresting agency to the SBI. The ATN and CTN continue with the case through final disposition. At the time of the initial arraignment or appearance and when the case is finally completed, the court transmits records of the outcome (plea of guilty, finding of guilty, finding of not guilty, dismissal, etc.), and the sentence, if any, to the SBI.

CJIS—This stands for **Criminal Justice Information Systems.** CJIS is a division of the FBI that manages the NCIC. They set rules and regulations concerning the NCIC system, the contents of the records submitted to NCIC, and the security requirements for all persons, including bail commissioners, who have access to the system and the information contained in the records. It is unlawful to release CJIS records or to discuss the information in the records with persons who are not authorized to have access to the information. Every bail commissioner, jurist and court employee must take a CJIS training course and successfully pass the CJIS exam to have access to these records.

SEQ—This is the FBI acronym for the sequence number. The sequence number is a unique number assigned by the court to each of the different criminal statute's subsections. Many Maine statutes contain multiple different ways to commit the crime. By assigning a unique sequence number to each subsection of a statute, the system permits the court and the person reviewing the record to determine which section of the statute was charged. This is important as often the type of evidence required to prove the case and the penalties for the same crime can vary depending upon the particular facts and statutory language. The bail commissioner should write the sequence number for each offense on the bail bond.

Docket Number—The number is assigned to each case at each court location. Each court is assigned an abbreviation for its location and the abbreviation is

used to signify the court type (Superior Court, District Court, or UCD) and the case type (civil, criminal, family matter, etc.). Each file is then assigned a number. This number is different from the ATN or CTN and is used to track the **court's** files. A listing of each of our court's abbreviations is contained in Appendix B.

An example of a docket number would be: PENCD-CR-2015-00890. This docket number tells the reader that the case

- is from the Penobscot Criminal Docket (PENCD);
- is a criminal matter (CR);
- was filed in 2015; and
- is file # 00890.

ORI—This is the **originating agency identifier**. Each law enforcement agency and court in the nation that accesses or provides information to the NCIC is assigned a unique number called an ORI.

Model Arrest Warrants

The following pages contain model arrest warrants as transmitted by METRO. The first page is a copy of a standard arrest warrant. The information typed in **BLACK** is what you will see on a typical warrant document. The information typed in **RED** describes what each section just before it stands for. The second page is a copy of an arrest warrant from the NCIC that contains information concerning extradition. Similar printouts are also available for motor vehicle records.

Maine Wanted Warrant Hit

105374
EWA.MEEWA0000/ME0160425.*x001186077.
TXT
MAINE STATE WARRANT DATABASE RESULTS-ON YOUR INQUIRY OF NAM/MIGHTY, JOE M DOB/19811218

TOTAL WARRANTS: 1
********** WARRANT #1 **********

MAINE STATE DATABASE WANTED PERSON RECORD

THIS WARRANT IS SEALED. INFORMATION CONTAINED IN THIS WARRANT IS RESTRICTED AND CONFIDENTIAL. NO BROADCAST IS PERMITTED. THIS WARRANT MAY NOT BE DISTRIBUTED VIA A TELECOMMUNICATIONS SYSTEM EXCEPT FOR NCIC CONFIRMATION PURPOSES. (THIS IS THE CJIS CONFIDENTIALITY WARNING LANGUAGE)

SCN/342735 (STATE COURT REF #) ORI/ME016055J (COURT HOLDING WARRANT) .
NAM/MIGHTY, JOE M (DEFENDANT'S NAME)
DOB/19811218 (DEFENDANT'S DATE OF BIRTH BY YEAR, MONTH, AND DAY).
SEX/M RAC/W HGT/601 WGT/170 EYE/BLU HAI/BLN (PHYSICAL DESCRIPTORS)
OLN/8888888 (OPERATOR LICENSE NUMBER) OLS/ME (OPERATOR LICENSE STATE)
MAILING ADDRESS: POB 555 (MAILING ADDRESS)
SACO, ME 04072
COUNTRY: US
LEGAL ADDRESS: 1 CHERRYFIELD AVE
SACO, ME
COUNTRY: US (PHYSICAL ADDRESS MAY BE DIFFERENT THAN MAILING ADDRESS).
DOW/20151211 (DATE OF WARRANT)
OCA/YRKCDCR2015006240003 (DOCKET NUMBER)
LOC/ALFSC (COURT LOCATION)
WARRANT TYPE/ON AFFIDAVIT (TYPE OF WARRANT)

MIS/BAIL: $500/00, $500/00 CASH BAIL/NO USE OR POSSESSION OF ALCOHOL, ILLEGAL DRUGS OR DANGEROUS WEAPONS INCLUDING FIREARMS WITH RANDOM SEARCHES AND TESTING /DEF/ SHALL TURNOVER ALL FIREARMS, WEAPONS, AND AMMO TO THE BIDDEFORD PD/ NO CONTACT WITH MELISSA VITTORIOSO OR THOMAS BYRD/ **IF DEF/ IS UNABLE TO MAKE BAIL PLEASE BRING DEF/ TO DISTRICT COURT FORTHWITH/
IF DEF/ IS ABLE TO MAKE BAIL PLEASE USE AN EASTERN DIVISION INITIAL APPEARANCE DATE/ (THESE ARE THE BAIL CONDITIONS SET BY THE COURT AND INSTRUCTIONS)

ATN/157447B (ARREST TRACKING NUMBER ON WARRANT)
CTN/001 (COUNT TRACKING NUMBER ON CHARGES) SCS/636 (SEQUENCE #)
TITLE /17-A SECTION/211 SUBSECTION/1 PARAGRAPH/ (STATUTE CITATION)
CLASS D (CLASS OF CRIME)
AGENCY/ME0160100 BIDDEFORD PD TROOP/(CHARGING LAW ENFORCEMENT AGENCY) CHARGE/RECKLESS CONDUCT (CRIME CHARGED)

SEALED/Y (SEALED YES OR NO- IF YES, NO RADIO TRAFFIC ALLOWED UNTIL IN CUSTODY.)
DATE OF ENTRY/201251211 (DATE WARRANT ENTERED INTO MAINE WANTED SYSTEM YEAR, MONTH, DAY)

NCIC Wanted Warrant Hit

105376
QWA. .MEO160425
.*X001186077.
TXT
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS. MKE/WANTED PERSON
EXL/B- LIMITED EXTRADITION SEE MIS FIELD 1 (EXTRADITION)
ORI/ME0160500 (ORIGINATING AGENCY)
NAM/MIGHTY, JOE M (NAME) SEX/M RACE/W (PHYSICAL DESCRIPTORS)
DOB 19811218 (DATE OF BIRTH)
HGT/601 WGT/170 EYE/BLU HAI/BLN (PHYSICAL DESCRIPTORS)
SOC/0060012234 (SOCIAL SECURITY #)
OLN/8888888 OLS/ME OLY/2015 (DRIVERS LICENSE INFORMATION) OFF/DISORD CONDUCT-RECKLESS CONDUCT (OFFENSES) DOW (DATE OF WARRANT)
OCA/YRKCDCR201500624 (COURT DOCKET NUMBER) MIS/WANTED ON AFFIDAVIT, RECKLESS CONDUCT-EXTRADITE NEW ENGLAND STATES (THIS MISC. FIELD EXPLAINS HOW FAR THE DA WILL AUTHORIZE LAW ENFORCEMENT TO GO OUT OF STATE AND PICK SOMEONE UP)
ORI IS SANFORD PD 207 324-3644 (CHARGING LAW ENFORCEMENT AGENCY AND PHONE NUMBER)
NIC/W765132i59 (NCIC WARRANT NUMBER) DTE/20151212 0020 EST (DATE/TIME OF ENTRY OF WARRANT) DLU/20151212 0020 EST (DATE/TIME LAST UPDATED)
IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI (THIS IS A MESSAGE THAT TELLS THE ARRESTING OFFICER THAT THEY MUST CALL THE ORIGINAL AGENCY AND VERIFY THE WARRANT AND THE STATEMENT THAT THE ORIGINAL AGENCY WILL INDEED GO OUT OF STATE TO THE ARRESTING AGENCY AND PICK THE PERSON UP TO RETURN TO MAINE)

IN NCIC NBR 14473 AT 12/14/2015 20:52:57
OUT SACOPD25 427 AT 12/14/2015 20:52:58 MRI 105376

Remember, as an officer of the Court, bail commissioners have been granted access to confidential information in these warrants that are not otherwise available to the public. As you may recall from your CJIS training, federal and state law prohibit you from releasing information, in any form, to any person who is not entitled to

have the information. This means you cannot discuss the contents of an arrest warrant with persons not directly involved in the case.

CHAPTER THREE
INTRODUCTION TO BAIL

General Information

A person who has been charged with a crime can either be summonsed or arrested. If someone is summonsed, they are simply given a written ticket informing them of the charges and ordering them to appear at court on a specific date and time to answer those charges. The person is free to leave once they receive their summons.

On the other hand, if a person is arrested, then he or she is not free to leave and is taken into custody. Typically, a person is under arrest when he or she has been handcuffed, placed in a police cruiser, and taken to a police station or to the local jail. It is when a person is arrested that they bail process applies.

Bail Defined

The term "bail" has two meanings, one general and one specific. "Bail" generally refers to the release from jail or custody of a criminal defendant. This may happen at any point during a criminal case. Depending on the circumstances, either the court or a bail commissioner will set the bail and the conditions that will govern the defendant's release. 15 M.R.S.§ 1003. Thus, when you hear that "a defendant is eligible for bail," the term "bail" refers to the procedure by which the defendant may be released.

"Bail" is also commonly understood to refer to the specific property that is turned over to the bail commissioner or the clerk of court as a guarantee that the defendant will appear for trial or sentencing. Thus, when you hear that "a defendant put up $100 cash bail," the term "bail" refers to the property—the $100 cash—that was delivered to a bail commissioner or the clerk of court to obtain the defendant's release.

In this Manual, the term "bail" is used both ways. When this Manual refers to a person "setting bail," it means that the judicial officer establishes the requirements for a defendant's release from jail. When it refers to a person "accepting bail," it means that the judicial officer receives from the defendant or from someone on his/her behalf the property and/or documents required to be posted as a condition for the

defendant's release and sees to the completion of the necessary bail forms by the defendant and any person offering property as bail. The completion of the paperwork process is also referred to as "executing bail". "Property" can mean cash or real estate or in rare instances personal property.

A Person's Right to Bail

Generally, a person who has been arrested has a constitutional right to bail. The right to bail is found in three places: the Eighth Amendment to the United States Constitution; sections 9 and 10 of Article 1 of the Maine Constitution; and the Maine Bail Code. (15 M.R.S. §§1001-1099-A). Under certain circumstances, a person may not be eligible for bail. This will be discussed in detail in Chapter 4.

Timing of Bail

As noted above, bail may occur at any stage of a criminal case. For bail purposes, these stages can be divided into two categories: pre-conviction bail and post-conviction bail.

"Pre-conviction bail" includes any point in a criminal proceeding before a defendant is found guilty or before the defendant pleads guilty or nolo contendere. The Bail Code defines "pre-conviction bail" as

> [t]he obtaining of the release of the defendant upon an undertaking that the defendant shall appear at the time and place required and that the defendant shall conform to each condition imposed . . . that is designed to ensure that the defendant shall refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community.

"Post-conviction bail" means any point in a criminal proceeding after a finding of guilty or after the acceptance of a plea of guilty or nolo contendere. Post-conviction bail is most commonly granted when a defendant is awaiting sentencing or when a sentence has been stayed, which means that it is not immediately imposed. When a sentence is stayed, it is usually for a brief period of time to allow the defendant to get

his or her affairs in order. In rare circumstances, it may occur while a defendant's appeal is pending.

Who Can Set Bail

Maine law specifically provides who can set bail and under what circumstances. [1] Only judges and justices are permitted to set **post-conviction bail**. The following persons are authorized to set **pre-conviction** bail in Maine:

Jurists. Judges and justices of the District Court, the Superior Court, and the Supreme Judicial Court have the broadest authority to set bail.

Bail Commissioners. Bail commissioners duly appointed by the Chief Judge of the District Court may set bail for most criminal offenses. The criminal offenses for which a bail commissioner may not set bail are discussed in detail in Chapter 4. Bail commissioners are only permitted to set bail before an adult defendant goes to trial or enters a plea of guilty or nolo contendere. Only a judge or justice may set bail after a person has been convicted. Although a bail commissioner may never set post-conviction bail, he or she may **execute** a post-conviction bail bond set by a judge.

Clerks. Clerks of the District Court and Superior Courts may set personal recognizance bail for defendants charged with bailable Class D or Class E offenses during the hours when the clerk's office is open for business and "subject to the control" of a judge. The authorization of clerks to set bail is at the discretion of the presiding judge and varies from court to court.

Game Wardens. Game wardens employed by the Maine Warden Service may set and accept up to $1,000 cash bail from the people they arrest if the place of arrest is at least fifty miles from the nearest District Court. Wardens must bail defendants at the place of arrest and must provide the defendant with a date and time to appear in court. If they bring the arrestee to the jail, only a bail commissioner, clerk, or judge may set or accept bail.

Forest Rangers. Forest rangers may set and accept up to $500 cash bail from the people they arrest provided that the place of arrest is at least

[1] 12 M.R.S. §§ 9707, 10353; 15 M.R.S. §§ 1003, 1021-1026, 1051; 17-A M.R.S. § 15.

fifty miles from the nearest District Court. Like wardens, they may accept bail only at the place of arrest and must provide the defendant with a date and time to appear in court.

Police Officers. Police officers making a warrantless arrest may "take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime." This authority "continues so long as the arrestee remains in the officer's custody." Thus, the officer loses this authority when the defendant is taken to the jail or brought to the courthouse. Unlike wardens and forest rangers, police officers are not authorized to accept cash bail from a defendant.

The phrase "personal recognizance" as used in the statutes permitting law enforcement officers, game wardens, and forest rangers to set bail is not the same as "PR bail" as used in this manual. Police officers, game wardens, and forest rangers **do not** have the authority to impose any special conditions of bail. When a defendant is bailed by a police officer, game warden, or forest ranger, the defendant does not sign a bail bond or conditions of release form. As such, the defendant cannot be charged with a violation of a condition of bail if he or she commits another crime after having been released by the officer. Instead, the officer has the defendant sign a uniform summons and complaint that contains language stating that the defendant promises to appear at court on the date and time provided in the summons. A law enforcement officer, game warden, or forest ranger may never charge or collect a bail fee.

County jail employees are not authorized to set bail. However, duly trained county jail employees, if authorized to do so by their Sheriff, may **execute** bail bonds and related paperwork if a judge or justice has ordered the release of a person in custody on a personal recognizance or unsecured bail bond. This authority includes the ability to note the bail conditions set by the court on the bail bond. Jail employees do not have the authority to add or to eliminate bail conditions set by the court. Further, they are not authorized to execute bail set by bail commissioners.

Types of Bail

There are three types of bail: personal recognizance, unsecured, and secured. The easiest way to distinguish between personal recognizance,

unsecured, and secured bail is to focus on the financial conditions of the bail bond.

> **Personal Recognizance**. Known as "PR" bail, this form of bail is a defendant's promise to abide by the conditions of his or her release and to appear in court whenever required. When PR bail is set, a defendant does not put up cash or property to secure his or her release. By signing the bail bond, the defendant is promising to obey all the conditions of the bond and to return to court for all of his or her required appearances.
>
> **Unsecured bail**. This form of bail involves the defendant's promise to abide by all conditions, to appear in court whenever required, and to pay the state a specified sum of money if he or she fails to appear in court. Thus, a bail commissioner does not collect any money when executing an unsecured bail bond. If the defendant fails to appear or violates any other condition of an unsecured bail bond, the court may issue a warrant for his or her arrest and may enter a civil judgment against him or her in the amount set by the bail bond. 15 M.R.S. §1094; M.R.U. Crim. P. 46(f).
>
> **Secured bail.** This form of bail involves delivering something of value to the bail commissioner or to the court as insurance to guarantee that the defendant will appear in court when required and that the defendant will abide by the conditions of his or her release. Property that may be used for secured bail includes cash, an interest in real estate, or in rare circumstances, personal property. The property may belong to the defendant or it may belong to someone else, who is called a **third party**. This is discussed in more detail in Chapter 9.

Other Bail Terms

A bail commissioner should also be familiar with the following terms.

"**Setting bail**" means that the judicial officer establishes the requirements for a defendant's release from jail.

"**Accepting bail**" means that the judicial officer receives property from the defendant or from a third party as a condition for the defendant's release and completes the bail paperwork.

"Bail Commissioner Fee" means the fee collected by a bail commissioner for executing a bail bond. Maine law provides that a bail commissioner may charge up to $60/defendant, not per bond, for their services. Maine law also states that a bail commissioner may not decline to execute a bail bond if a defendant is indigent.

"**Executing bail**" also refers to the process of completing the bail paperwork.

"**Bailor**" is a general term referring to anyone who offers anything of value to secure a defendant's release, including the defendant or a third party and whether the person posts cash or another type of property.

"**Security**" is a general term referring to *any property of value* that is posted for bail.

"**Secured bail**" is bail supported by *any property of value*. The distinction is drawn because "security" refers to property.

"**Surety**" refers to a *third party* who posts property *other than cash*.

> A corporation may serve as a surety so long as it actually owns something (many business corporations do not). Bail commissioners faced with an organization's appearance as a surety should be sure to get the corporation's representative's oath of the value of the organization's property on the back of the bail bond. If in doubt, contact the Manager of Criminal Process before agreeing to accept a corporation as a surety.

"**Surety bail**" is bail secured by any property other than cash. The distinction is drawn because a "surety" is a person.

"**Concurrent bail**" is bail that has been posted on one charge that may also serve as bail for another charge.

For example, if the defendant has posted $1,000 cash bail in one case and then is arrested on a new charge, the judge or justice might set bail at "$1,000 cash concurrent with existing cash bail." In other words, the defendant doesn't have to post more cash bail to get out. Generally speaking, a bail commissioner will not set a concurrent bail, but he or she may execute a concurrent bail ordered by the court.

"Cash bail" refers to U.S. currency only. It does not include checks or foreign currency.

CHAPTER FOUR
PROHIBITIONS ON SETTING BAIL

A bail commissioner is prohibited from setting bail in the following circumstances.

Bail Previously Determined by a Judge.
A bail commissioner may not set bail for a defendant who is in custody and whose bail has previously been set or denied by a judge. In other words, a bail commissioner may never alter the bail order of a judge. 15 M.R.S. §1023(4)(B).

Ordinarily, a bail commissioner will be able to tell from the warrant of arrest whether a judge has previously made a ruling on bail. If the warrant states that no bail is to be allowed, a bail commissioner may not set bail at all. If the warrant specifically states what the bail is, the bail commissioner must follow that bail order and no other. On the other hand, if the warrant is silent about bail, or indicates that bail should be set after arrest, the commissioner may set any appropriate bail.

One common condition set by a judge is "no third-party bail". If that condition is listed on the warrant, this means you should not accept cash or property that belongs to another person for the defendant's bail. Only accept the defendant's own cash or property as security.

If a third party insists on posting cash bail for a Defendant, be sure to have the following conversation with the third party: "Do you understand that the money being posted is going to be considered the property of the Defendant and the money you are posting will not be returned to you?" Get an affirmative response from the third party before accepting the cash and make a note of it for your files.

Every bail commissioner should carefully review the warrant and/or Condition of Release form (CR-002) and check to see if the court imposed a no third-party bail condition. The Commissioner should also specifically ask the question: "Whose money, or property, is this?"

Bail Previously Set by Another Bail Commissioner

A bail commissioner may not change the bail set by another bail commissioner. If you learn of additional facts that you believe merit a change, or if you learn additional facts that lead you to believe that it is not legal for a bail commissioner to set bail in the case, you should contact the bail commissioner who originally set the bail and discuss the situation with him or her.

> For example, bail commissioner A is called at 2 a.m. to set bail on a misdemeanor domestic violence charge. At that time, bail commissioner A is told that the defendant has no prior criminal record and is not currently on bail. She sets a cash bail at $200 with a condition of no contact with the victim. Later, bail commissioner B goes to the jail to execute the bail. Bail commissioner B learns that the defendant is currently out on bail for a felony aggravated assault against the same victim. Bail commissioner B knows that under Maine law, he is prohibited from bailing the defendant. In this situation, bail commissioner B should decline to execute the bail, notify jail personnel of the reasons for his decision and then contact bail commissioner A and explain why he declined to execute the bail.

If you can't reach the other bail commissioner, or if you have questions concerning this process, you should contact the criminal process manager.

Juvenile Offenses

Generally, criminal offenses committed by people under the age of 18 are not "crimes" but "juvenile offenses." The laws regarding juveniles, and the specific procedures that are to be followed in juvenile matters, are contained in the Juvenile Code. 15 M.R.S. §§ 3001-3507. The Bail Code does **not** apply to most juvenile offenses. The decision to release a juvenile must be made by a juvenile probation officer or a District Court judge. A bail commissioner should not set bail or execute a bail bond for a juvenile offense.

Traffic Infractions and Civil Offenses

Many violations of law are not punishable by incarceration. These are called civil violations or civil offenses. Some examples include illegal

possession of alcohol by a person under twenty-one years of age and letting a dog roam at large. Because no jail time can be imposed upon conviction, a person cannot be arrested and taken into custody. Therefore, bail is unnecessary.

Traffic infractions are violations of Title 29-A of the Maine Revised Statutes, for which only a fine can be imposed and for which a person cannot be arrested or sentenced to jail. Because civil traffic infractions are not criminal offenses, bail is not set in those matters. There are some motor vehicle offenses, however, that are classified as crimes such as Operating Under the Influence or Operating After Habitual Offender Revocation. Because these offenses carry with them the potential for jail time, a bail commissioner may set bail in these cases. A bail commissioner should always verify whether the offense is classified as civil or criminal before setting bail.

It is not always easy to distinguish a traffic violation or civil offense from a criminal one. For example, if a person fails to stop at a stop sign and causes an accident, that person has committed a traffic infraction for which neither arrest nor bail is appropriate. However, if the person fails to yield at a yield sign and causes an accident because the person is intoxicated, that person has committed the criminal offense of operating under the influence, and therefore bail may be set. If you are unsure if an offense is a criminal or a civil offense, you should contact the responsible law enforcement officer, the local prosecuting attorney, or the criminal process manager, for clarification.

Extradition

When a person in this state is arrested on a charge pending in another state, there begins a process called "extradition," by which the court determines whether the person should be forced to return to the other state to face the charges. A defendant who is wanted in another state is usually charged with being a "Fugitive from Justice." The availability of bail in an extradition proceeding is controlled by the extradition statutes, 15 M.R.S. §§ 201-229, and not by the Bail Code. **Only a judge may set bail in such cases.** If the court sets bail, the bail commissioner may execute the bail bond.

Post-Conviction Review

After a person has been convicted of a crime, there are certain circumstances when the person may argue that he or she is being illegally detained in jail. These are known as "habeas corpus" cases. The availability of bail in these cases is controlled by the post-conviction review statutes, 15 M.R.S. §§ 2121-2132, and not the Bail Code. **Only a justice of the Superior Court may set bail in such cases.** A bail commissioner cannot set post-conviction review bail but may execute a bail previously set by the court.

Probation Revocation

When a person who has previously been sentenced to a period of probation violates any of the terms of his or her probation, the probation officer may ask the court to revoke the probation, and to incarcerate the defendant for the portion of the sentence that had been suspended. The availability of bail in a probation violation matter is controlled by the probation statute, 17-A M.R.S. § 1205-C, and not by the Bail Code. **Only a judge can set bail in such cases.**

There are occasions where a person is charged with both a criminal offense and a violation of probation. This may occur when a person, accused of a new criminal offense, is also charged by the probation department with having violated his or her probation by committing the new offense. In such cases, a bail commissioner must set bail on the new criminal charge, if it is a bailable offense, but may not do so on the probation violation. A bail commissioner can execute a bail previously set by the court.

Orders on Failure to Pay Child Support

Occasionally, after a hearing, a judge will issue an order for failure to pay child support—instead of a warrant—that states that the defendant is to be released upon proof of payment of the amount due. In this circumstance, a bail commissioner should decline to set bail and inform the jail official that the person should be released pursuant to the court's order. If any questions remain, you should contact the criminal process manager.

Domestic Violence Offenses
Effective August 30, 2012, bail commissioners are also prohibited from setting bail in certain domestic violence cases. This will be discussed in further detail in Chapter 7.

Violations of Conditions of Release
If a defendant violates a condition of previously set bail, he or she has committed a new criminal offense. The law governing whether someone can be bailed by a bail commissioner after being charged with Violation of Conditions of Release is very strict. 15 M.R.S. § 1092(4). The law provides that a bail commissioner may **not** set bail for a defendant who has been granted pre-conviction bail and who has been arrested for Violation of Conditions of Release if:

> A. The condition of release alleged to be violated relates to new criminal conduct for a crime classified as Class C or above, or for a Class D or Class E crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, Chapter 12;
>
> B. The underlying crime for which pre-conviction bail was previously granted is classified as a Class C or above; or
>
> C. The underlying crime for which pre-conviction bail was granted is a crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12.
>
> If a bail commissioner does not have sufficient information to determine whether the violation of the condition of release meets the criteria set forth under this subsection, the bail commissioner may not set bail on the violation of condition of release.

So, what does this all mean? Here are some examples.

> Example #1. A defendant was previously bailed for a Class C OUI and then while out on bail was charged with violating a condition of release by allegedly committing a Class D Fish and Wildlife offense. A bail commissioner may not set bail on the violation of

condition of release charge. This is because the underlying charge for which he was out on bail was a Class C offense. The defendant must be taken before a judge to have bail set.

Example #2. If on the other hand, the defendant was previously bailed for a Class D OUI and was subsequently arrested on a violation of condition of release for having alcohol in his possession, a bail commissioner can bail the defendant on the new violation of condition of release charge. This is because the possession of alcohol while out on release does not fit into any of the prohibitions on bail listed above.

Example #3. If a defendant was out on bail on a Habitual Motor Vehicle offense, class unknown, and then was arrested for domestic violence assault, Class D, the bail commissioner cannot set bail on the violation of condition of release. This is because the condition of release alleged to have been violated is for a Class D crime involving domestic violence.

Example #4. If a defendant was bailed for Class E disorderly conduct, and while out on bail is arrested for a Class B burglary, the bail commissioner may not set bail. This is because the condition of release alleged to be violated relates to new criminal conduct for a crime classified as Class C or above.

Example #5. If a defendant was bailed for Class D unlawful sexual contact, and while out on bail is arrested for a Class E disorderly conduct, the bail commissioner may not set bail. This is because the underlying charge for which he was out on bail was a sexual assault pursuant to chapter 11 of Title 17-A.

A chart explaining in more detail whether someone can be bailed by a bail commissioner after being charged with Violation of Conditions of Release is contained in Appendix C.

Murder

Maine defines murder as "intentionally or knowingly causing the death of another human being," causing the death of another human being by

an act "which manifests a depraved indifference to the value of human life," and/or "intentionally or knowingly causing another human being to commit suicide by the use of force, duress or deception." 17-A M.R.S. § 201. The Bail Code prohibits bail commissioners from setting bail in murder cases.

Felony Murder and Manslaughter

Bail commissioners may, in very limited circumstances, set bail in felony murder and manslaughter cases. If the victim of the offense is a family or household member as defined in 19-A M.R.S. § 4002(4), the bail commissioner is **prohibited** from setting the bail. A more detailed discussion of who is considered a family or household member is in Chapter 7.

If the victim is not a family or household member, then the bail commissioner can set bail in manslaughter or felony murder cases. In general terms, felony murder occurs when a person dies during the commission of a felony such as robbery, burglary, kidnapping, gross sexual assault, escape or arson. Manslaughter is the reckless or criminally negligent killing of another. 17-A M.R.S. §§ 202, 203.

Formerly Capital Offenses

The availability of bail was initially determined in the early 1800s and memorialized as a protected right in article I, section 10 of the Maine Constitution. When the final version of that section was enacted in 1838, bail was available to all defendants except those accused of offenses that were, or ever had been, punishable by the death in Maine.

There is no longer a death penalty in Maine, so no one can be charged with a "capital offense." However, if the defendant's offense was ever punishable by death under the Maine Constitution, the defendant is not automatically eligible for bail set by a bail commissioner, because the charge is "formerly a capital offense."

The Supreme Judicial Court has identified "formerly capital offenses" as murder, rape, arson of a dwelling at nighttime, armed robbery, armed burglary of a dwelling at nighttime, and treason. *Harnish v. State*, 531 A.2d 1264, 1265 n.1 (Me. 1987).

The Bail Code establishes a procedure, called a "Harnish bail proceeding," that is for determining whether the offense with which the defendant is charged is a "formerly capital offense." 15 M.R.S. § 1027. Only a judge may decide whether an offense is a "formerly capital offense."

If a prosecutor tells a bail commissioner that the State is requesting a "Harnish bail proceeding," that means that the State believes that the defendant is charged with a formerly capital offense. A bail commissioner may not set bail after receiving notice of such a request. The notice can be formal (in writing) or informal (by telephone or e-mail, through a conversation with the prosecutor or through a message relayed to the bail commissioner by a law enforcement officer). 15 M.R.S § 1023(1)(B).

If no such request has been made by the time you set bail, you may set bail as discussed above. 15 M.R.S. § 1023(1). Use caution in your review of the offense to ensure that you have authority to set bail. If the State doesn't request a Harnish proceeding until after bail has been set, the judge will decide whether to continue the defendant's bail. 15 M.R.S. §1027(1).

After a Harnish proceeding, if a judge decides that the offense is a formerly capital offense, the defendant's constitutional right to bail is extinguished, although the judge may grant the defendant bail as a matter of discretion. 15 M.R.S. § 1027(3). If the judge grants bail after a Harnish proceeding, a bail commissioner is authorized to accept bail and execute the bail bond and conditions of release in accordance with the court's order. In such a case, it is very important that the bail commissioner carefully follows the court's order.

The chart on the following page may help you understand these rules:

Formerly capital offense, for which a bail commissioner:	May never set bail	May set bail if the victim is not a family or household member	Must set bail, if eligible, unless a Harnish hearing is requested
Murder	√		
Rape		√	
Arson of dwelling at night			√
Armed robbery			√
Armed burglary of dwelling at night			√
Treason			√
Felony Murder or Manslaughter		√	

Keep in mind, that in addition to this Harnish analysis, the bail commissioner must also consider any other prohibition on bail commissioners when setting bail. 15 M.R.S. § 1023.

CHAPTER FIVE
SETTING BAIL

Purpose of Bail

Before setting bail, a bail commissioner must understand the purpose of bail. In enacting the Bail Code, the Maine Legislature stated that the purpose and intent of bail is

- to ensure that the defendant appears in court;
- to preserve the integrity of the judicial process;
- to ensure the safety of specific individuals and the community; and
- to ensure that the defendant refrains from committing new crimes.

"Preserving the integrity of the judicial process" is defined as "safeguarding the role of the courts in adjudicating the guilt or innocence of defendants by ensuring the presence of the defendant in court and otherwise preventing the defendant from obstructing or attempting to obstruct justice by threatening, injuring, or intimidating a victim, prospective witness, juror, attorney for the State, judge, justice or other officer of the court." 15 M.R.S. § 1003(5).

"Ensuring the safety of the community" is defined as "protecting community members, other than those already protected under subsection 5, from the potential dangers posed by the defendant to a specific person or to persons in the community generally." 15 M.R.S. § 1003(4-A).

Bail is not for holding someone because he or she is poor or drunk, because he or she has angered a police officer or community member, because the nature or type of crime alleged is repulsive or offensive, or because of a desire "to clean up the streets." Bail should never be used to punish a defendant.

STEP 1: Gathering the Necessary Information Before Setting Bail

A bail commissioner should gather as much information as possible to make an informed, intelligent, and independent decision on bail. This process typically involves gathering information from law enforcement or jail officials. The information may be contained on the "safe keep

summary form" in the jail file or in the police officer's report or probable cause affidavit.

At a minimum, the bail commissioner needs information regarding:

- the type, name, and classification of the charge(s);
- the basic facts of the case;
- victim information, including full names, dates of birth, addresses, and relationship to the defendant;
- the defendant's criminal and motor vehicle history;
- the defendant's ties to the State of Maine;
- the defendant's history of appearing, or failing to appear in court;
- whether the defendant is currently on bail, on probation, on a deferred disposition or subject to a Protection From Abuse order; and
- the defendant's identifying information, including his or her full name, date of birth, physical description, current residential and mailing addresses, and driver's license information in cases involving a motor vehicle offense.

As will be discussed in Chapter 7, bail commissioners are also required in domestic violence related cases to secure from the law enforcement officer the results of the ODARA domestic violence risk assessment.

Sometimes the police officer or the jail staff will be unable to provide, or will fail to provide, the information necessary to make an informed decision. For example, a commissioner in an urban area will rarely speak directly to the arresting officer about the nature of the defendant's offense before setting bail. Instead, the commissioner will be provided a copy of the paper records concerning the case. At times like that, a bail commissioner must do the best he or she can with what information is available. You are directed by statute to consider all available information. However, if the new charge is Violation of Conditions of Release, then the law mandates that a bail commissioner have sufficient information to determine whether the alleged violation meets certain criteria. Without sufficient information to make this determination, a bail commissioner may not set bail on the charge of Violation of Conditions of Release. This is discussed in more detail in Chapter 4.

The Bail Code does not expressly require that a bail commissioner meet with a defendant prior to **setting** bail. The bail commissioner must meet with the defendant, however, when he or she **executes** the bail bond.

STEP 2: Consider the Statutory Factors Before Setting Bail

The Bail Code, 15 M.R.S. § 1026(4), provides that a judicial officer[1] may consider the following factors in determining the type of bail and the type of conditions to impose:

A. The nature and circumstances of the crime charged;
B. The nature of the evidence against the defendant;
C. The history and characteristics of the defendant, including but not limited to:

(1) The defendant's character, physical and mental condition;
(2) The defendant's family ties in the State;
(3) The defendant's employment history in the State;
(4) The defendant's financial resources;
(5) The defendant's length of residence in the community and the defendant's community ties;
(6) The defendant's past conduct, including any history relating to drug or alcohol abuse;
(7) The defendant's criminal history, if any;
(8) The defendant's record concerning appearance at court proceedings;
(9) Whether the defendant, at the time of the current offense or arrest, was on probation, parole, or other release pending trial, sentencing, appeal, or completion of a sentence for an offense in this state or another;
(10) Any evidence that the defendant poses a danger to the safety of others in the community, including the ODARA score (further discussed in Chapter 7);
(11) Any evidence that the defendant has obstructed or attempted to obstruct justice by threatening, injuring or intimidating a victim, prospective witness, juror, attorney for the State, judge, justice, or other officer of the court; and

[1] Bail Commissioners are considered judicial officers for purposes of the Bail Code, 15 M.R.S. § 1003(8).

(12) Whether the Defendant has previously violated conditions of release, probation, protection from abuse orders, or other court orders.

This list is not exhaustive. A bail commissioner should consider anything about the defendant that could reasonably bear on whether he or she will appear for trial, refrain from committing new crimes, and respect the integrity of the judicial process, as well as anything that may affect the safety of others in the community.

Outside Influence on Setting Bail

Only a judge or a bail commissioner may set conditions of bail. Therefore, law enforcement officers, corrections officers, prosecutors and defense attorneys, victim advocates, and other interested persons do not have the authority to order a bail commissioner to set bail or to not set bail. There is sometimes a misperception by these individuals that they can order a bail commissioner to impose certain conditions or types of bail. This is not correct.

The nature, type and specifics of bail and bail conditions are solely for you to decide. If you run into someone who insists that they have the right to set the type of bail or the bail conditions, or if they imply that they will eliminate you from the bail commissioner call list if you don't impose the conditions they want, you should bring this to the attention of your local judge in charge of bail commissioners or the criminal process manager.

There are times where a law enforcement official may have legitimate reasons to suggest certain bail conditions. You should consider the information provided and listen to their reasons. However, it is up to you— not them—to set the bail conditions.

There may also be occasions where an out-of-state or federal law enforcement officer asks the bail commissioner to refuse to set bail or to set a high bail. The bail commissioner's duty is to follow Maine law and Maine court orders. In these cases, you are advised to contact the criminal process manager.

STEP 3: Setting the Type and Amount of Bail

The Bail Code provides that a judicial officer shall order the pretrial release of a defendant on personal recognizance or on unsecured bail, unless, after consideration of the factors listed above, the judicial officer finds that the facts and circumstances of the case require secured bail to meet the purposes stated above. **In other words, there is a statutory presumption in favor of PR bail or unsecured bail, but secured bail is permitted if appropriate.** The Bail Code also requires that a defendant be subjected to the **least restrictive conditions necessary** to ensure that the purposes of bail are met. Thus, a judicial officer may not impose a financial condition that, either alone or in combination with other conditions of bail, is in excess of that which is reasonably necessary.

When, in your judgment, you think it's necessary either to ensure the appearance of the defendant in court, to ensure the defendant will not reoffend, to ensure the integrity of the judicial process, and/or to ensure the safety of others in the community, 15 M.R.S. §1026(2-A), and that the facts of the case warrant the imposition of a secured bail, a bail commissioner may require security. The process for executing and accepting secured bail is discussed in more detail in Chapters 8-11.

Maine does not have a preventive detention statute. Thus, a bail commissioner cannot set a large or high bail simply to hold someone. You can consider, however, whether a substantial secured bail is appropriate because you fear that the defendant is going to commit another crime, harm a witness or another person or flee if released on personal recognizance or upon execution of an unsecured appearance bond. If you think that a defendant is going to commit new criminal conduct once released, please contact local law enforcement. This is especially important if during the bail process the Defendant makes statements to you that lead you to believe that he/she is going to commit or attempt to commit a new crime or have contact with a victim upon release.

Each bail, and any conditions imposed, should be made on an individualized case by case basis. Maine does not have a "bail schedule" that dictates what type or amount of bail should be set based solely on the crime charged. Nor do we have any charts that dictate what kind of

bail, or bail conditions should be set. Except for the mandatory conditions set out below, it is an individualized determination.

STEP 4: Setting the Conditions of Release

Mandatory Conditions

Whether you set PR bail, unsecured bail, or secured bail, the Bail Code requires that every order for the pretrial release of a defendant include the following conditions:

> 1. An agreement by the defendant to waive extradition to the State of Maine from any other state of the United States, from the District of Columbia, from any territory of the United States, or from any other jurisdiction whatsoever, for prosecution on the charge(s) for which they are being bailed;
> 2. A condition that the defendant refrain from committing new criminal conduct; and
> 3. A condition that the defendant not violate any pending protection from abuse orders issued pursuant to 19 M.R.S. § 769 or 19-A M.R.S. § 4011.

The bail bond also lists two additional mandatory conditions:

> 4. A condition that the defendant immediately provide written notification to the court of any change of address or telephone number; and
> 5. An agreement by the defendant to appear in a specific court on a specific date and time and for all subsequent hearings as ordered by the Court.

These conditions, which are preprinted on the bail bond, (CR-001), are often referred to as the "standard bail conditions." They may not be altered or eliminated by the bail commissioner. This is true even if the bail commissioner feels that they are unnecessary or unrelated to the case or the purposes of bail.

Additional Conditions

In addition to the mandatory conditions, you may impose any other condition(s) that you determine are necessary to achieve the purposes of

bail. Only impose additional conditions that are related to the offense and that meet the purposes of the Bail Code. Whenever an additional condition of release is included that is not a mandatory condition, the bail commissioner must specify a court date that is within eight weeks of the date of the bail order. A stricter limit of five weeks is required if the case involves domestic violence.

If a police officer or jail official presents you with a date beyond the eight-week limit, you should inform the person of the eight-week limitation and set an appropriate date. If you change a date, you must notify the responsible law enforcement agency, the prosecutor's office and the clerk's office. A single e-mail addressed to all three is the best method to achieve this.

There are some other restrictions and special considerations, which are discussed in detail below. The Bail Code provides a broad range of possible conditions that may be imposed. 15 M.R.S. § 1026(3). 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;
> (4) Abide by specified restrictions on personal associations, place of abode or travel;

(5) Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;
(6) Report on a regular basis to a designated law enforcement agency or other governmental agency;
(7) Comply with a specified curfew;
(8) Refrain from possessing a firearm or other dangerous weapon;
(9) Refrain from the possession, use or excessive use of alcohol and from any use of illegal drugs. A condition under this subparagraph may be imposed only upon the presentation to the judicial officer of specific facts demonstrating the need for such condition;
(9-A) Submit to:

(a) A random search for possession or use prohibited by a condition imposed under subparagraph (8) or (9) (see discussion below); or

(b) A search upon articulable suspicion for possession or use prohibited by a condition imposed under subparagraph (8) or (9);

(10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;
(10-A) Enter and remain in a long-term residential facility for the treatment of substance abuse;
(11) Execute an agreement to forfeit, in the event of noncompliance, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;
(12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community;
(13) Return to custody for specified hours following release for employment, schooling or other limited purposes;
(14) Report on a regular basis to the defendant's attorney;

(15) Notify the court of any changes of address or employment;
(16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;
(17) Inform any law enforcement officer of the defendant's conditions of release if the defendant is subsequently arrested or summonsed for new criminal conduct;
(18) Participate in an electronic monitoring program, if available.

Searches for Alcohol and Illegal Drugs

The bail bond currently has two options for searches related to alcohol and drugs: random searches and searches based upon articulable suspicion. A "search based upon articulable suspicion" means that the police officer must have a belief, based upon facts or circumstances, that the defendant is violating this condition of his or her bail before the officer may search the defendant or request that the defendant submit to a test. A "random search" means that a police officer may request that a defendant submit to a search or take a test, without any basis for the request, and the defendant must immediately comply or risk revocation of bail.

This kind of bail condition, although appropriate in some cases, gives police officers unfettered discretion. Therefore, the Legislature has determined that only a judge or justice may impose a condition for random searches and testing for drugs or alcohol. Bail commissioners are **prohibited** from **setting** a condition of random search and seizure for drugs or alcohol. 15 M.R.S. § 1023(4)(G). If you are asked to set this condition, you must decline to do so. A bail commissioner may, however, **execute** a bail bond where the judge or justice has already set bail with a condition of random search.

Use or Possession of Alcohol or Illegal Drugs

A new version of the Bail Bond was prepared and released in the spring of 2018. That bond breaks out alcohol, drugs, marijuana, firearms and weapons as separate choices and allows a bail commissioner to choose a prohibition against possession, use, **or** excessive use. This allows the judge or bail commissioner to customize any prohibitions or restrictions to only those matters that apply to the case and eliminates the problems

previously encountered where there was not enough room to detail the restrictions.

No Contact Provisions

Another frequently required condition is that the defendant have no contact with the alleged victim or a witness to the crime. **Always** name the person or persons that the defendant shall not contact. Do not use generic phrases such as "no contact with the victim" or "no contact with witnesses." This type of language makes it impossible for law enforcement to check for bail conditions compliance as it provides insufficient information. If a no contact provision is appropriate, include specific language: "No contact with Jane Smith DOB 11-14-1955 and Jayson Smith DOB 2-4-2012."

STEP 5: Final Check on the Necessity and Reasonableness of the Conditions

In making these decisions, the bail commissioner must draw upon the statutory factors listed above and then apply the law, common sense, and reasonableness in determining what additional conditions, if any, should be imposed. A bail commissioner must always consider that the conditions they set, or the amount of bail they require, could have a substantial impact on a person's freedom, liberty interests, family, and in many situations, the defendant's ability to earn a livelihood. Every bail determination is made on a case-by-case basis, and the bail commissioner should consider whether the type, amount, and conditions of bail are necessary and reasonable. As such, each time bail is set the bail commissioner should consider the following questions:

- If secured bail is imposed, would PR bail or unsecured bail serve the same purpose?
- If secured bail is imposed, is the amount excessive or would a lesser amount achieve the same purpose?
- Are the conditions reasonably related to the purpose of bail?
- Are the conditions reasonably related to the crime charged?
- Are the conditions excessive or unnecessary? Would less restrictive conditions accomplish the same goal?

Example #1
You are called to set bail on two different defendants who have been charged with burglary. In the first case, you learn that the defendant has been charged with fourteen counts of burglary and theft of firearms and that the police have evidence that the individual was shipping the stolen firearms out of state. At the time of the arrest, the defendant had in his possession a variety of burglar tools, a stolen portable police radio, and a firearm. The defendant resides out of state and has an extensive felony level criminal history.

In the second case, a local eighteen-year-old high school senior was charged with a single count each of burglary and theft after he broke into a camp for the night when his snowmobile broke down on a frozen lake. While in the camp, he used wood from the woodpile to build a fire to keep warm, ate some cereal, and took some tools so that he could repair his snowmobile. A game warden, checking on the ice conditions in the area, discovered the break in.

In these instances, the bail type and amount, and the conditions set for the first defendant could be, and should be, quite different from the bail set in the second case. The bail commissioner would be acting appropriately if he or she set a higher cash bail and much more stringent conditions on the first defendant than on the second defendant because the likelihood of the first defendant showing up for trial is much less.

Example #2
You are called to set bail on a Class D theft charge. Your research shows that the defendant is a lifelong resident of Maine, is employed, has no prior criminal history, and has deep family and community ties. Assume also that there is no evidence of drug or alcohol use when the crime was allegedly committed. In this scenario, a PR or unsecured bond, perhaps with the condition of "not to return to the location where the theft occurred" would be appropriate. Conditions prohibiting the individual from possessing or consuming alcohol, or a condition imposing a curfew are probably excessive and unnecessary, given these facts.

On the other hand, if the charge was Class B theft, the defendant was from another state with no family or community ties to Maine, it is alleged that he was intoxicated when the crime was committed, and he is on

probation from Oklahoma, then a cash or surety bail with conditions is appropriate.

Example #3
The nature of the offense should also guide your decision on what conditions, if any, to set. You are called to bail a first-offense OUI defendant who is a lifelong local resident, whose blood alcohol test result is 0.10%, who was stopped for a defective taillight, and who has no pending charges. The defendant is probably eligible for PR bail, without special conditions. This is because you probably will have no evidence that would suggest that the defendant will not appear in court, intimidate witnesses, or commit a new crime.

In contrast, you are called to bail a third-offense OUI defendant who has twice failed to appear in prior criminal cases and who was arrested after a high-speed chase. You probably should consider some amount of cash or surety bail to ensure his or her appearance, and the defendant should be ordered not to use or possess alcohol. If the defendant's driver's license is currently under suspension, a condition not to operate a motor vehicle unless authorized by the Secretary of State may also be appropriate.

Sometimes, the defendant's background will suggest what conditions should be attached to his or her bail. A defendant with a lengthy criminal record is a likely candidate for secured bail. If you have a second-offense drug trafficking offender who is from New York City, who has a history of failure to appear or a person who is arrested on a minor charge but is from Canada, you probably ought to consider release on secured bail to ensure their appearance.

EFFECTIVE TIME AND DATE OF CONDITIONS OF RELEASE

A condition of release (bail condition) takes effect and is fully enforceable as of the time the judicial officer sets the conditions unless the bail order expressly excludes it from immediate applicability. 15 M.R.S. §1026(7). This applies even if the Defendant is unable to make bail or makes bail on one charge but not on a second charge.

This portion of the law clarifies something that has created confusion in the past; once the Court or a bail commissioner sets a condition of no contact, a defendant, even if he/she fails to make bail and remains in jail, cannot use the jail's phone or send letters or messages to contact or to harass the victim. A defendant who violates the condition is at risk of having bail revoked (because contacting the victim is a violation of a condition of bail and a new crime) or having to post secured bail thereafter (because harassing a victim or witness violates the integrity of the judicial process).

CHAPTER SIX
SPECIAL CONSIDERATIONS WHEN SETTING BAIL CONDITIONS

Defendants Who Are Intoxicated

A bail commissioner will occasionally be called to bail a person who appears to be under the influence of alcohol and/or drugs. Under this circumstance, the bail commissioner must determine whether the person has the capacity to understand the bail process, the bail conditions, and his or her responsibilities under the bail bond. In making this determination, the bail commissioner should use his or her common sense, experience, and observations of the defendant to make a reasonable judgment about the person's ability to understand the situation. You may ask yourself:

- Does this person understand the crimes with which he or she has been charged?
- Does this person know that I am a bail commissioner?
- Does this person understand why I am talking to him or her?
- Does this person reasonably comprehend the situation? Or are they so intoxicated that they simply have no idea as to what is going on?

A good way to answer these questions is to ask the defendant to repeat information back to you or to have the defendant explain his or her understanding of the situation. If you determine that the person does not have the capacity to understand, but he or she is otherwise entitled to bail, you may **set** the bail. It is important, however, that you do not **execute** the bail until the person can understand the bail conditions and his or her responsibilities.

A person does not have to be completely sober to be released on bail. If the person is under the influence but nevertheless has the capacity to be understand the bail process, executing bail is appropriate. If you are concerned that due to a person's intoxication the person would pose a safety risk—to himself or herself or to others in the community—you should consider adding a condition regarding the person's release. Here is an example:

> The defendant shall be released from custody upon obtaining sobriety, or by ____ AM/PM on _____ (date), whichever occurs first.

Alternatively, you could add a condition requiring that the defendant agree to submit to the temporary custody of a sober friend or family member who is capable of supervising the defendant until he or she obtains sobriety. If you use this condition, you are advised to place a time limit on the temporary custody. An example would be "To be released to the custody of his brother, John Smith and to remain with John Smith, until 8 a.m. today. Not to operate a motor vehicle during this time".

Remember that intoxication, by itself, is not a reason to require secured bail. Security is only appropriate when PR bail would not reasonably ensure that the defendant appears in court when required, that the defendant refrains from committing new criminal conduct, that the integrity of the judicial process be preserved, and/or that the safety of others in the community be protected.

Defendants Who Are Physically Injured

If the individual has a physical injury, which may occur when a person has been arrested after a physical altercation or a motor vehicle accident, you should similarly ask yourself whether they have the capacity to understand the bail process, the bail conditions, and his or her responsibilities. If you think that the injury is interfering with the person's ability to understand the process and his or her obligations, you should not execute the bail.

As always, keep in mind the purpose of bail. The jail is obligated to provide persons in its custody with necessary medical care. This includes treatment at a local hospital or emergency room or in-patient admission. If you set cash bail, and the person cannot meet it, the jail may incur significant medical costs and costs for supervision of the person who is in custody. For this reason, jail officials may encourage you to set PR bail rather than secured bail. Remember that the decision whether to set bail and what bail to set, is yours alone. In these situations, like other bail situations, your focus should be on what bail and or conditions are the least restrictive and would meet the four purposes of the bail code.

Defendants Who Have Mental Health Issues

When called to set bail for an individual with a mental health issue, the important question to ask is whether the individual has the mental

capacity to understand who you are, why you are there, what the charges are, and what his or her responsibilities are upon release.

If you do not have sufficient information to determine whether the person has the necessary mental capacity, you should refuse to set bail. You may consider filling out a bail form that provides: "bail to be reviewed in 24 hours." You should also consider contacting the criminal process manager.

A bail commissioner must always consider that the conditions they set, or the amount of bail they require, could have a substantial impact on a person's freedom, liberty interests, family, and in many situations, the Defendant's ability to stay employed or earn a livelihood.

As such, each time a bail is set the bail commissioner should consider:

1. Is this bail amount necessary to ensure a defendant's appearance, to protect the integrity of the judicial process, to provide for the safety of the community and to prevent the commission of new crimes?
2. Are the conditions reasonably related to meeting the goals of the standards set out above?
3. Are the conditions ones that relate to the crime charged or are they excessive or unnecessary?
4. Are there less restrictive conditions that would accomplish the same goals?
5. Would a different type of bail (PR or Unsecured), or a different amount of bail, serve the same purpose?
6. Will the conditions imposed reasonably prevent a defendant from committing a new crime?

Remember, bail is not to be used to punish a person, to hold someone in jail because he or she has angered a police officer or community member or to "clean up the streets". Likewise, bail conditions are not meant to prevent a person out on bail from moving about in their community, or from carrying on their daily activities of life unless the conditions are related to one of the four purposes of bail.

Defendants Who Have Communication Barriers
The Judicial Branch has adopted the following policy relative to barriers to communication:

> Many persons who come before the courts may be restricted in their ability to fully participate in the proceedings due to limited English proficiency, a speech impairment, hearing loss and/or deafness. It is essential that any resulting communication barrier be removed, as far as possible, so that these persons are placed in the same positions as similarly situated persons for whom there is no such barrier.
>
> Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice. As officers of the court, interpreters help assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters may be privately retained or paid through public funds.

If you are called to bail a person with limited English proficiency, a speech impairment, hearing loss, and/or deafness, it is critical to ensure that they understand the bail process and their obligations. The same is true if you encounter a third-party surety that has a communication barrier.

Hearing Impaired Defendants
It is important to understand that, for the deaf, written English is a second language. Sign language may be their primary means of communication. Reading lips is a rare skill and an unreliable means of communication.

State law mandates the appointment of a "qualified legal interpreter" or a provider of "computer-assisted, real-time transcription" for any person who is deaf or hearing impaired and is the subject of a court proceeding. 5 M.R.S. § 48-A. While the statute does not specifically define setting bail

as a court proceeding, the Judicial Branch has determined that this is an official proceeding requiring the services of an interpreter.

If you are asked to bail a deaf person, or if a third-party surety is deaf, first determine if he or she can read and write. You may be able to proceed with bail successfully in this manner. If you are not comfortable that he or she can read and write in a manner sufficient to understand the bail process, you should engage the services of an interpreter.

Law enforcement agencies and jails should have access to deaf interpreting services, and they may have already contacted an interpreter for you. If not, you may request an interpreter by calling the Pine Tree Society in Portland at (207) 885-0536. This is a 24-hour per day, 7-day per week, statewide service. If an interpreter is available and can arrive within a reasonable period of time, you should await the arrival of that person before proceeding with the bail process.

If an interpreter is not available, or not available within a reasonable time, you should proceed as best you can. What constitutes a "reasonable period of time" will depend on your judgment of all relevant factors, including but not limited to the time of day, the nature of the charge, your ability to communicate with the defendant or surety, the condition of the defendant, the availability of other bail commissioners to come to the jail if you have to leave before the interpreter arrives, and the location of the jail. You must balance the defendant's right to release with his or her need to be informed.

Defendants Who Have Limited English Proficiency

"Limited English proficiency" (LEP) refers to persons whose primary language is a language other than English and whose ability to speak English is not at the level of comprehension and expression needed to participate effectively in court proceedings. The Judicial Branch will provide all LEP defendants with an interpreter in all court proceedings at the State's expense.

Although some LEP persons may request interpreter assistance, not all will. Sometimes the lack of English proficiency is not obvious. An LEP person may nod his or her head even though he or she does not fully understand what is being asked or said. If you are unsure, you should ask

several open-ended questions to determine the person's English language proficiency. Pay attention to the use of tense and reference to time and whether answers are limited to just one or two words.

Sample questions to assess understanding of English:

- What is your name and address?
- How old are you?
- Are you married? How many children do you have, if any?
- What do you do for work?
- What languages can you read and write?
- How often do you speak English? With whom?
- How comfortable are you in proceeding with this matter in English?

Always provide language assistance if it is requested even if you believe that an individual's English is "probably good enough." If the person does not ask for language assistance, but you believe that the person is having difficulty understanding or communicating, you should request language assistance through Language Line®. You should use your best judgment.

Do not use a family member or a friend as an interpreter. Although such informal interpretation may seem easier and less expensive than using an official interpreter, it may lead to serious negative consequences. The Judicial Branch has a contract with Language Line® for the use of interpreters **by telephone.** Bail commissioners can access this service when bailing persons who have limited English proficiency or when working with third-party sureties who have limited English language proficiency. The service covers 98.6% of all the requests for the 6,809 languages spoken around the world. The Language Line® service is very efficient. You will be immediately connected to an interpreter to assist with the bail process.

There are several contract limitations when using the Language Line®. This service is **not** for use by other third parties, such as the jail, law enforcement, defense counsel, emergency communications or dispatch centers, and friends or family. Thus, you should **never** give out the Language Line® billing code. Furthermore, the contract **does not** include in person interpretation or the online video conferencing service offered

by Language Line®. The Judicial Branch does not have the budget for these services. If you bring a language interpreter into the jail or use video conferencing, you do so at your own expense, and the court will not reimburse you for those costs.

Using Language Line®

First, ask the person to identify his or her primary language and dialect. If the person is unable to tell you, provide the person with the language identification card located in Appendix D, so the person can point to his or her language. If you still cannot identify the language, call Language Line® for assistance.

Next, call Language Line® at 1-877-261-6608. Press 1 for Spanish, press 2 for all other languages, or speak the name of the language at the prompt. Provide the Client ID and indicate that the organization is the State of Maine Judicial Branch. Again, do not give out this code to third parties.

When the interpreter comes on the line, introduce yourself and provide a brief explanation of the situation. You should speak slowly and clearly. Only one person should speak at a time and it is best to limit the length of each exchange. Please explain to the defendant, through the interpreter, that the Judicial Branch will pay for the interpretation services.

Once the language line interpreter understands the assignment, ask the interpreter to listen to each line you read and then translate it for you. If the line requires you to gather information, such as an address or the correct spelling of a person's name, explain to the interpreter what you need and ask them to have the defendant spell it back to them and then to you. If you are unsure of an answer, ask the interpreter to repeat the answer.

When reading conditions of bail that you are setting, be sure to have the interpreter explain the conditions and then have the interpreter ask: 1. Does the defendant understand the condition? 2. Does the Defendant have any questions?

Finally, when using Language Line®, please make note of the date and time of the service, the start time and end time of the conversation with Language Line®, the language spoken, and the name of the defendant. Be

sure to note that the interpreter was used by you for bail processing purposes. This information should be e-mailed to the criminal process manager at the following address: Anne.jordan@courts.maine.gov. Please provide the information within 48 hours of handling the bail. It is also best practice to attach a short note to the copy of the bail bond going to the Clerk's office informing them that you needed to use an interpreter and the language spoken. This will provide them a heads up to plan for the need for an interpreter at future court hearings.

Here are some tips for communication:

- Use short simple sentences free of slang or court jargon.
- Speak directly to the LEP person, not to someone who may be with him or her.
- Try asking a question several ways.
- Use universal symbols and signs to assist with communication.
- Speaking loudly does not help.
- Speaking slowly may help, but this is not a substitute for professional language assistance.
- Treat the LEP person with the same courtesy and respect you would hope for if you were in another country and did not speak the language or understand the culture and needed assistance.

Defendants Who are on Probation or Parole

Many times, a bail commissioner will be called to set bail on an individual who has been arrested for a new offense and is on probation or parole**.** A bail commissioner may set bail on the new offense if the individual is otherwise eligible for bail but a bail commissioner may **NOT** set bail on the probation or parole violation. In these situations, always ask if the Department of Corrections official has put a probation or parole hold on the individual. If the answer is yes, do not set bail on either charge. If a probation hold has not been put on the individual, process the bail as you would any other arrest.

CHAPTER SEVEN
BAIL IN CASES INVOLVING DOMESTIC VIOLENCE

Introduction

Between 2006-2016, there were 58,130 arrests in Maine for domestic violence assault. During that same period, 117 people were killed because of domestic violence.[1] Put another way, a domestic violence assault occurs in Maine once every hour and 47 minutes every day of the year. The Maine Legislature, the Governor, and the Chief Justice have all declared that domestic violence is a serious and pervasive problem in Maine.

As a result, many laws, policies, and rules have been put in place that require bail commissioners to take specific action before setting bail in domestic violence related cases. In other instances, the law limits or prohibits a bail commissioner from setting bail in certain domestic violence-related cases. Therefore, when a bail commissioner is called to set bail in a case involving domestic violence, he or she must (1) determine whether the offense involves domestic violence, (2) determine whether he or she has authority to set bail, and (3) if he or she has authority, set bail and any appropriate conditions.

Definitions

It is important to be aware of the terminology used in the statutes governing domestic violence-related crimes. The Bail Code defines a "crime of domestic violence" [2]as:

> A. A crime defined in Maine's Criminal Code, found in Title 17-A of the Maine Revised Statues, as a crime of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct; and
>
> B. A violation of a protective order under Title 19-A, section 4011, where the alleged victim is a family or household member as

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[1] *Crime in Maine*, a report from the Maine Department of Public Safety. Annual reports providing detailed statistics and analysis of crime in Maine are accessible at www.maine.gov/dps/cim/crime_in_maine/cim.htm.

[2] 15 MRS §1003(3-A).

defined in Title 19-A, section 4002 (4). 15 M.R.S. §1003 (3-A).

A "family or house hold member" is defined as:

1. Spouses or domestic partners;

2. Former spouses or domestic partners;

3. Individuals presently or formerly living together as spouses;

4. Parents of the same child;

5. Adult household members related by consanguinity (blood) or affinity (affection);

6. Minor children of a household member when the defendant is an adult household member;

7. For the purposes of the protection from abuse and harassment laws and 17-A MRS § 207-A (domestic violence assault), §209-A (domestic violence criminal threatening), §210-B (domestic violence terrorizing), §210-C (domestic violence stalking), §211-A (domestic violence reckless conduct), individuals presently or formerly living together; and

8. Individuals who are or were sexual partners. 19-A M.R.S. § 4002(4).

In plain English, this statute provides that a person who is a current or past family or household member, a current or past dating or sexual partner, or a minor child of an adult in one of these households is a "family or household member."

STEP 1: Determining Whether the Offense Involves Domestic Violence

The first step a bail commissioner must follow is determining whether the offense charged meets the definition of a crime of domestic violence as discussed above. Keep in mind that a crime may not meet the definition of "domestic violence," but it may nevertheless qualify as an

aggravating circumstance to consider for bail purposes. For example, criminal mischief is not defined as a crime of domestic violence in the Criminal Code. However, if a person commits criminal mischief by smashing a former spouse's car windows in order to get revenge on the former spouse for dating someone new, the facts as presented in the case should be carefully considered when setting bail and bail conditions[3].

Examples of crimes that are not specifically included in the definition of domestic violence in the Bail Code, but may be considered to be domestic violence related for bail purposes include: assault (17-A M.R.S. § 207), terrorizing (17-A M.R.S. § 210), stalking (17-A M.R.S. § 211), kidnapping (17-A M.R.S. § 301), criminal restraint (17-A M.R.S. § 302), criminal restraint by a parent (17-A M.R.S. § 303), burglary (17-A M.R.S.§ 401), criminal trespass (17-A M.R.S. §402), harassment (17-A M.R.S. § 506-A), harassment by telephone or other electronic communication device (17-A M.R.S. § 506), endangering the welfare of a dependent person (17-A M.R.S. § 555), and aggravated assault (17-A M.R.S. § 208(1)(C)) .

If a bail commissioner is uncertain whether an offense involves domestic violence, the commissioner must make reasonable efforts to contact the appropriate law enforcement officer to determine whether the incident is domestic violence-related, to gather information concerning the facts of the case, and to determine the severity of the alleged offense before setting bail. 15 M.R.S. §1023(4)(C). This effort is required not only for those crimes specifically defined as a domestic violence offense as discussed above, but also for other criminal violations when the victim is a family or household member of the offender.

Information Needed Before Setting Bail in a Domestic Violence Case
The Legislature has determined that you must try to gain as much information as possible in domestic violence cases before you set bail. 15 M.R.S. § 1023(4)(C). A bail commissioner can accomplish this by requesting the following information:

1. The name, address, and date of birth of the defendant and the victim(s);

[3] 15 M.R.S.§ 1026(3)-(4)

2. The facts of the incident as relayed by the police agency, including statements or threats to harm or kill someone, the nature and extent of any injuries, whether strangulation was involved, and whether medical attention was required;

3. The results of the ODARA score, and if one is not available, the reason why it is not available;

4. The defendant's criminal history, both in state (commonly referred to as an SBI record) and out-of-state (commonly referred to as a "Triple I" record);

5. The presence of, use of, or threatened use of any weapons;

6. The defendant's history of failure to appear, both in state and out-of-state;

7. Whether there are any protection from abuse orders in effect, or whether there were any in the past;

8. Whether the defendant is out on bail, a deferred disposition, or probation, and if so, what conditions are in effect;

9. If the defendant is out on bail, it is imperative that the bail commissioner determine the type of crime and the classification of the crime for which he or she was previously bailed; and

10. The address of the victim and whether the victim requested that his or her address remain confidential.

The Bail Code specifically states that a bail commissioner may not set pre-conviction bail for a defendant in a case involving domestic violence before making a good faith effort to obtain from the arresting officer, the responsible prosecutorial office, a jail employee, or other law enforcement officer the above listed information. If a bail commissioner does not have this information to review, he or she should decline to set bail until the information is provided. If this occurs, tell the officer or jail employee that by law you must have this information before you can

determine whether you have the authority to set bail or decide the type and conditions of bail to be set.

Furthermore, 15 M.R.S. § 1023(4)(C)(5) and 19-A M.R.S. § 4012 require you to make a good faith effort to secure from law enforcement the results of an evidence-based domestic violence risk assessment, also known as ODARA. Every law enforcement officer in Maine has been trained to administer this assessment by the Criminal Justice Academy.

Additionally, before a newly appointed bail commissioner can set or execute bails, they too must be trained on the ODARA risk assessment tool, how to interpret it, and how to use it in the bail setting process. Please refer to the ODARA training booklet that was previously provided to you for further clarification on the ODARA score and what it means.

Victim Information

The Bail Code requires a bail commissioner to make a good faith effort to obtain from the arresting officer, responsible prosecutorial office, a jail employee, or other law enforcement officer the name, address, phone number, and date of birth of each of the victims in cases involving domestic violence. 15 M.R.S. § 1023(4)(C).

If there are different victims for different charges regarding the same event, please secure each victim's name, address, and date of birth. Make your best effort to gather all this information, but never refuse to set bail in those circumstances where a victim declines to provide his or her address or phone number.

This information should be listed on the bail bond and/or conditions of release form. **However**, before you enter the victim's information on the bail bond, consider this. Pursuant to 17-A M.R.S. § 1176(3), a bail commissioner, judge, justice, court clerk, law enforcement officer, or attorney for the State **may disclose a victim's current address or location to the defendant**, or the attorney or authorized agent of the defendant, as part of a bail condition or court order restricting contact with the victim, **only when it is clear that the defendant already knows the victim's current address or location, or** when the victim requests that such bail condition or court order be issued and **the victim requests that the current address or location be specified**.

Generally, if the victim lists his or her address as the location where the victim and the defendant had lived together, then it is permissible to include that address on the bail bond. However, if it is reported to you that the victim has fled that residence, or that her address is confidential, **do not** put the address on the bail bond.

STEP 2: Domestic Violence Cases Where a Bail Commissioner is Prohibited From Setting Bail

The Bail Code prohibits bail commissioners from setting bail in certain domestic violence cases. 15 M.R.S. § 1023(4)(B-1). The following chart lists those crimes for which only a **judge** can set bail:

CRIME	STATUTE	CLASS
Murder	17-A M.R.S. § 201	Murder
Felony Murder - if the victim is a household or family member	17-A M.R.S. § 202	A
Manslaughter - if the victim is a household or family member. This includes vehicular manslaughter.	17-A M.R.S. § 203	A or C
Assault by an adult against a child less than 6 years old that causes bodily injury to the child	17-A M.R.S. § 207(1)(B)	C
Domestic Violence Assault – only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3)	17-A M.R.S. §207-A(1)(B)	C
Aggravated Assault	17-A M.R.S. § 208	B
Elevated Aggravated Assault	17-A M.R.S. § 208-B	A
Elevated Aggravated Assault Against a Pregnant Person	17-A M.R.S. § 208-C	A
Domestic Violence Criminal Threatening - only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3), or if elevated to a Class C crime because of	17-A M.R.S. § 209-A (1)(B) or 17-A M.R.S. § 1252(4)	C

use of a dangerous weapon (17-A M.R.S. § 1252(4))		
Terrorizing - only where the natural consequence is causing the evacuation of a building, place of assembly, or facility of public transport or causing occupants to be moved to or remain in a secured area	17-A M.R.S. § 210(1)(B)	C
Stalking - where the defendant has two or more prior convictions for stalking, violation of a protection from harassment order, violation of a PFA Order, violation of child protection case order, or violation of similar order issued by U.S. or tribal court	17-A M.R.S. § 210-A(1)(C)	C
Domestic Violence Terrorizing - if charged as a Class C violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3), or if elevated to a Class C crime because of use of a dangerous weapon (17-A M.R.S. § 1252(4))	17-A M.R.S. §§ 210-B (1)(B)(1)-(3) 17 A M.R.S. § 1252(4)	C
Domestic Violence Stalking - if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime for use of a dangerous weapon (17-A M.R.S. § 1252(4))	17-A M.R.S. §§ 210-C (1)(B)(1)-(2) 17 A M.R.S. § 1252(4)	C
DV Reckless Conduct - if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (17-A M.R.S. § 1252(4)).	17-A M.R.S. §§ 211-A (1)(B)(1)-(3) 17 A M.R.S. § 1252(4)	C
Aggravated Reckless Conduct	17-A M.R.S. § 213	B
Gross Sexual Assault	17-A M.R.S. § 253	A, B, C

Sexual Abuse of a Minor - where victim is related to actor within the 2nd degree of consanguinity (blood) or where actor is at least 10 years older than victim	17-A M.R.S. § 254 (1)(A-1)-(A-2)	C
Unlawful Sexual Contact	17-A M.R.S. § 255(1)(B)-(F-1), (H), (J), (L)- (P), (R), (R-2), (V), (X)	B, C
Visual Sexual Aggression of a Child - where the victim is a child under 12 years old	17-A M.R.S. § 256 (1)(B), (D)	C
Sexual Misconduct with a Child Under 14 years of Age - where the victim is child under 12 years old	17-A M.R.S. § 258(1-A)	C
Solicitation of Child to Commit Prohibited Act	17-A M.R.S. § 259-A(1)(B)	C
Kidnapping	17-A M.R.S. § 301	A or B
Criminal Restraint - where the victim is a child under 8 years old	17-A M.R.S. § 302(1)(A)(4), (B)(2)	C
The following violations of a **temporary PFA order** where the **victim is a family or household member:** • Restraining the liberty of the victim; • Threatening, assaulting, molesting, harassing, attacking, or otherwise disturbing the peace of the victim; • Repeatedly following the victim or being in the vicinity of the victim's home, school, business, or place of employment; • Taking, converting, or damaging property in which the victim may have a legal interest; or • Having direct or indirect contact with the victim.	19-A M.R.S. §§ 4006(5)(A)-(F), 4011	D

The following violations of a **final PFA order** where the **victim is a family or household member:** • Threatening, assaulting, molesting, harassing, attacking, or otherwise abusing the victim or minor child in the household • Possession of a firearm or dangerous weapon • Using or attempting/threatening to use physical force that would reasonably be expected to cause physical injury on the victim or minor child in the household • Going upon the premises of the victim's residence • Stalking the victim, repeatedly following the victim, or repeatedly being at or in the vicinity of victim's home, school, business, or place of employment • Having direct or indirect contact with victim • Entering the residence of victim after being ordered not to return or be present • Violating an order of parental rights and responsibilities (not including child support) listed in the protection order	19-A M.R.S. §§ 007(1)(A)-(E), (G), 4011	D, and rarely C

Caution: There are certain violations of protection from abuse orders that protect elderly or disabled individuals from abusive caregivers or that protect victims of sexual assault or stalking (where there has been no prior marital or sexual relationship) that may not qualify under the charts above if the victim is not a family or household member of the defendant. If you are uncertain as to the nature of the relationship, or are uncertain if the exclusions apply, err on the side of caution. If you

cannot get the information needed to make an informed and intelligent decision, do not set bail. A judge will do so later.

Strangulation

Maine does not have a separate and distinct law regarding strangulation. However, bail commissioners should be aware that our criminal code currently makes it a Class B offense of aggravated assault if the defendant causes bodily injury to another under circumstances manifesting extreme indifference to the value of human life. This extreme indifference includes the use of strangulation.

For the purposes of this statute, strangulation means the intentional impeding of the breathing or circulation of the blood of another person by applying pressure on the person's throat or neck. 17-A M.R.S. § 208(C). If the police report or information you receive alleges that there was strangulation or that the defendant "tried to choke" the victim and the victim's breathing or circulation was impeded, it is a Class B offense and you cannot set bail. This is true even if the police officer did not charge a Class B offense. Use your common sense and good judgment whenever you encounter these types of cases. If necessary, insist on gathering further details.

As related to domestic violence, if a defendant is already out on bail and then gets arrested again for Violation of Conditions of Release because of a new domestic violence offense, you may not set bail for the individual. You may only execute a bail bond in this situation if the bail was already set by the judge.

STEP 3: Mandatory Bail Conditions in DV Cases

The Chief Judge has decided that unless there is a specific and persuasive reason for doing otherwise, in cases where a person can be bailed for a domestic violence offense, all bail commissioners **shall:**

A. Always impose the following conditions of release when a person has been arrested for a domestic violence crime:

1. The defendant shall have no contact, direct or indirect, with the named victim(s), and

2. The defendant shall not enter or go to the victim's residence, school, or place of employment.

B. Impose the following conditions of release if the defendant arrested for a domestic violence crime was affected by alcohol or illegal drugs at the time of the offense, even to the slightest degree:

3. The defendant shall not use or possess any alcoholic beverages or scheduled drugs and shall submit to a chemical test and search of the defendant's person, premises, and vehicle upon a finding of articulable suspicion by any police or probation officer to determine whether the defendant is in violation of this condition.

C. Impose the following conditions of release if the defendant was arrested for a domestic violence crime where he or she threatened to use a firearm or dangerous weapon, or threatened to kill or seriously injure the victim(s), or if the defendant presents a credible threat to the physical safety of the victim(s) or the immediate family of the victim(s):

4. The defendant shall not use or possess any firearms or dangerous weapons and shall submit to a random search of the defendant's person, premises, and vehicle upon the request of any police or probation officer to determine whether the defendant is in violation of this condition.

Be careful in analyzing the facts for number 4 above. Remember, if the defendant is charged with criminal threatening with a dangerous weapon, you are not allowed to set bail.

Note that these conditions are non-financial conditions of bail. The policy does not address or limit a bail commissioner's discretion whether to set secured or unsecured bail. Nor does the policy limit a bail commissioner's discretion to set these or other conditions of release in other, non-domestic violence crimes.

Time Limits

In all cases in which no-contact provisions have been imposed, bail commissioners **must** set the arraignment date no later than five weeks

from the date of the arrest. This time limitation is mandatory and should not be deleted or ignored by a bail commissioner. 15 M.R.S. § 1023(4)(F).

It is not uncommon for bail commissioners to be presented with a court date more than five weeks out by a law enforcement officer, correctional employee, emergency communication specialist, or other clerk. Sometimes a law enforcement officer will report that the local prosecutor or police department policy requires that they set a date beyond the five-week limit. In these cases, it is incumbent upon the bail commissioner to politely inform the officer that any arraignment date more than five weeks out is not permitted. 15 M.R.S. §1023(4)(F). The bail commissioner should set an appropriate date, within the time limitations, and note it on the bail bond.

Please be sure that the arraignment date on the bail bond and the arraignment date on the summons match. This may require that the law enforcement official issue a new summons or change the date on the existing summons. If you are unable to contact the law enforcement officer to issue a new summons, you should take steps to promptly notify the clerk's office, the prosecutor's office, **and** the law enforcement officer and his or her agency of the change in date. This notification is required so that all agencies involved in the criminal justice process are aware of the changes and can properly process the paperwork and notify the victim of the changes. Communication by a joint email is preferred. Be sure to include the Bail Bond ID number, the Defendant's name and date of birth, arresting agency information, the date of the offense, the charges and the new court date in your email.

You should inform the defendant that the date on the bail bond controls, not the date on the summons.

Returning to the Residence

If an individual is arrested for domestic violence, they are not allowed to list their address on the bail bond as the address where the victim resides, and they cannot be released until they provide an alternate address. This is because of the no contact condition required in all domestic violence cases, as previously discussed.

You should insist that the defendant provide you an alternate address where he or she will be staying until the court case is resolved. Often this may be a temporary address, such as a friend's house or a local hotel or shelter. In those instances, tell the defendant that as soon as more permanent arrangements are made, he or she **must** immediately notify the court, in writing, of the new address. Point out the mandatory reporting of change of address section of the bond to them.

You should inform the defendant that when the condition of no contact is imposed, he or she is prohibited from returning to the residence. It is not unusual for a defendant who has been charged with domestic violence, and who has been prohibited from returning to his or her family home, to request permission to return to gather clothing or personal belongings, to get medication, or to retrieve their tools, briefcase, computer, or car so that they can go to work.

Bail commissioners have the discretion to allow the defendant to return to the residence **one** time, accompanied by a police officer, to retrieve personal belongings. This permission is pre-printed on the bail bond and conditions of release form and **must** be checked off to be effective. If the bail commissioner decides to include this as a condition, the bail commissioner should alert the appropriate law enforcement agency and clearly explain to the defendant that they cannot go on their own and that it is their responsibility to make the necessary arrangements with the police.

Defendants should also be informed that if they return without a police officer, they are subject to arrest and incarceration until a judge can set bail. This is true even if the defendant or a police officer reports to you that the victim agreed to the defendant's return without a police officer. Sadly, there have been cases where a defendant has returned to a residence and the victim has been injured or killed. Therefore, you must be very careful when you impose the condition, and you must insist on the presence of a law enforcement officer, on a pre-arranged date and time before you agree to allow the defendant to return to the residence.

You should explore with the Defendant the option that a trusted individual retrieves the items instead of the defendant returning to the residence. If there is a neighbor, co-worker, or trusted friend who could

go to the residence, to quietly and efficiently retrieve the items, then this may be a better solution.

It is important that the bail commissioner explain to the defendant that a condition of no contact, direct or indirect, means just that. In addition to not being allowed to return to the residence, they are not allowed to drive by the residence repeatedly, call or text the victim, send letters or flowers, attempt to contact the victim through social media, or send messages through friends, relatives, their children, or co-workers. Likewise, a victim has no authority to change the conditions of no contact as set by the bail commissioner or court. Be sure the defendant understands that the victim cannot change the bail conditions, only a judge can. Let the defendant know that if they violate the condition, they are subject to immediate arrest, and that if arrested, only a judge can set new bail.

Finally, bail commissioners should be aware that generally federal law requires that a Protection From Abuse Order issued in one state shall be given the same weight and effect in another state. A victim is not required to have a separate Protection From Abuse order in each state. You may ask why is this important? If a victim secures a PFA order in another state and then flees or moves to Maine, the previous order must be enforced by Maine law enforcement even though it was issued by an out-of-state judge. Thus, as a bail commissioner, you should consider an out- of -state PFA order just the same as you would in in-state PFA order.

CHAPTER EIGHT
SETTING BAIL IN CASES INVOLVING WARRANTS

It is not unusual for a bail commissioner to be called upon to set bail in cases where an individual has been arrested on a warrant or a charge of violation of conditions of release. Before an appropriate bail can be set, the bail commissioner must first understand the process for issuing warrants, the different types of warrants that can be issued and the statutory limitations that exist on a bail commissioner's ability to set bail in certain cases.

The legal authority to issue a warrant can be found in many different locations in both Maine statutes and the Maine Rules of Unified Criminal Procedure. Under Maine law, a justice of the Superior Court, a judge of the District Court, a duly appointed justice of the peace and, in limited circumstances a duly authorized clerk, may review applications for and issue arrest warrants. Law enforcement officers never have the authority to issue an arrest warrant. They may apply to an appropriate court official to have a warrant issued and then they have the authority to serve and execute a warrant and take someone into custody.

4 M.R.S. §114, Authority of the Court, provides that the Superior Court has the authority to "issue execution for the arrest of persons". Likewise, 4 M.R.S. §171, gives authority to District Court judges to "issue arrest warrants and summons". 4 M.R.S. §161 permits an attorney-at-law, who has been appointed by the Chief Judge of the District Court as a justice of the peace, to "receive complaints and issue process for the arrest of persons charged with a criminal offense". These laws also provide that the Maine Supreme Judicial Court may draft and establish rules of procedure governing the issuance and execution of arrest warrants in both criminal and civil cases.

The Supreme Judicial Court has implemented rules governing the issuance of arrest warrants. The pertinent language of that rule is as follows:

Maine Rule of Unified Criminal Procedure (M.R.U.Crim.P.)

Rule 4 Arrest Warrant or Summons

(b) Grounds for Issuance of Arrest Warrant or Summons

(1) Indictment. An indictment is grounds for issuance of an arrest warrant or summons for the defendant named in the indictment.

(2) Probable Cause. Probable cause to believe that a crime has been committed and that the defendant committed it is grounds for an arrest warrant or summons for the defendant. Probable case shall appear from the information or complaint or from the affidavit or affidavits sworn to before the court or other officer empowered to issue process against the persons charged with crimes against the State and filed with the information or complaint.

(3) Bench Warrant. A bench warrant may issue for a failure to appear or for contempt or as provided by statute.

(c) Who May Issue Arrest Warrant or Summons

(1) Indictment. A clerk shall issue an arrest warrant or summons for the defendant named in the indictment when so directed by the court or so requested by the attorney for the State.

(2) Probable Cause. The court, or when duly authorized to do so, a justice of the peace or clerk may issue an arrest warrant or summons based on probable cause, as determined pursuant to subdivision (b)(2).

(3) Bench Warrant. The Court may authorize the issuance of a bench warrant physically or electronically. A clerk shall authorize the issuance of a bench warrant physically or electronically when so directed by the court.

(d) Content of Arrest Warrant or Summons

(1) Warrant. The arrest warrant shall bear the caption of the court or division of the court from which it issues. It shall contain an electronic signature of the court, or clerk issuing the arrest warrant electronically, or contain a physical signature by the court or other person authorized to issue arrest warrants in the event the arrest warrant issued is a paper warrant. It shall contain the name of the defendant or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty. The arrest warrant shall contain available information concerning the identity and location of the defendant, including, but not limited to, photographs of the defendant, the defendant's last known address identified by town, county and geographic codes, the defendant's date of birth, and any distinguishing physical characteristics that will aid in the location of the defendant and the execution of the warrant. It shall describe the crime charged and indicate when applicable that it is a crime involving domestic violence. It shall command that the defendant be arrested and brought before the court. The amount of bail may be fixed by the court and physically or electronically endorsed on the warrant.

What types of arrest warrants will bail commissioners encounter?

As previously discussed in Chapter 2, there are a variety of different types of arrest warrants that a bail commissioner may encounter:

1. Arrest warrants issued after an indictment has been handed down by the Grand Jury (commonly referred to as warrant on indictment);

2. Arrest warrants issued after a finding of probable cause, based on an affidavit and complaint submitted by law enforcement or a prosecutor, and approved by the judge, duly authorized clerk or justice of the peace (commonly referred to as a warrant on affidavit);

3. A warrant issued by the Court after a defendant failed to appear in court for a hearing (commonly referred to as an FTA warrant);

4. A warrant issued by the court after a person failed to pay a fine in accordance with a schedule set by the court (commonly referred to as an FTPF warrant);

5. A warrant issued by the Court for failure to pay restitution;

6. A warrant issued after a defendant failed to appear on a hearing for failure to pay other types of court fees (Commonly referred to as FTA/Other fees.

7. A warrant on an allegation of a new criminal offense of violation of a condition of bail (commonly referred to as a Vio. /Bail warrant);

8. A warrant alleging a violation of a condition of probation and requesting that the court revoke the defendant's probation. These types of warrants are typically requested by the defendant's probation officer and are commonly referred to as a Pro. Rev. or PV warrant; and

9. A warrant issued after a hearing in a civil case alleging an intentional failure to pay child support. These are often referred to as a contempt warrant.

When a bail commissioner is called to set bail in a warrant case, the first thing he/she must do is determine the type of warrant that has been issued. As will be discussed later, in some types of warrants such as Vio. Bail or Pro. Rev. warrants, a commissioner is prohibited from setting bail. In other kinds of warrants a bail commissioner may be prohibited from setting bail due to the nature of the crime, the nature of the relationship between the person charged and the victim, the classification of crime or whether a person is out on bail already on another charge. These prohibitions were explained in Chapters 4 and 7.

Generally, unless otherwise prohibited by law, a bail commissioner is authorized to **set** bail for most warrant types. The exceptions to this rule are as follows:

1. When a court has issued an order that no bail is allowed:

2. When a judge or justice has already set the bail amount and/or conditions and those conditions are contained in the warrant. In these cases, the bail commissioner must follow the judge's order;

4. When the Defendant is charged with murder (of any kind), and felony murder or manslaughter if the victim is a family or household member;

5. When a Defendant has been charged with a crime against a family or household member as previously described in Chapter 7;

6. When a defendant has been charged with a Violation of Conditions Release pursuant to 15 M.R.S. § 1092. This was previously discussed in Chapter 4.

7. Any warrant charging a juvenile (a person under the age of 18) with a juvenile offense. Almost all juvenile offenses are not considered a crime under Maine law (15M.R.S. § 3103(3)). The decision to release a juvenile must be made by a juvenile community corrections officer or a District Court judge. A bail commissioner should not become involved in setting bail or executing a bail bond for a juvenile offense.

In cases where the warrant has been issued for Failure to Appear on Failure to pay a fine, or failure to pay restitution, the Court typically sets bail at an amount that is still owed or if the amount owed is large, a portion of the amount owed. In these cases, pay careful attention to whether the Court has prohibited third party bail. If the court prohibits third party bail, the bail commissioner must directly ask the person who brought the money in "who owns this money?" If the money is owned by someone other than the Defendant, and if the Court entered a no third- party bail order, you may not accept the funds.

If a third party insists on posting cash bail for a Defendant, be sure to have the following conversation with the third party: "Do you understand that the money being posted will be considered the property of the Defendant and the money you are posting will not be returned to you?" Get an affirmative response from the third party before accepting the cash and make a note of it for your files.
You can find the language prohibiting third party bail on the warrant print out or on the Conditions of Release form.

The reason you must make this inquiry is that Maine law provides that the money posted belongs to the Defendant and at the conclusion of the case the money MUST be taken by the Clerk to apply to unpaid fines, fees, restitution and counsel fees. The only exception to this is when a person declares that the money is third-party bail.

When a person declares third-party bail, the third party must sign the back of the bail bond and they must also understand that at the conclusion of the case the money will be taken and applied to any fines, court fees, restitution, counsel fees or other amounts owed by the third-party. If no money is owed the third-party money will be returned to them.

It is not uncommon for an elderly family member, friend or former partner of a defendant to come in and try to retrieve their funds. If it has not been declared third-party bail at the time the Defendant was bailed, and if the third-party designation on the back of the bail bond was not completed at the time the bail bond was executed, the court cannot and will not return the funds to them.

Finally, on occasion, the Court will issue a warrant for the arrest of a person for failure to pay child support. These types of warrants are issued only after there has been hearing on a Motion to Enforce Child Support and the Court has found that the Defendant has intentionally failed to pay the support and that the Defendant had the ability to make the payments. In these cases, the amount due may be rather large. A bail commissioner should collect the cash stated in the warrant just like any other case and should promptly deposit the funds and turn in the bail bond just like any other case. The Clerk's office will accept the funds and make the necessarily disbursements to either the named party or the Department of Health and Human Services.

One note of caution: occasionally, a judge will hold a hearing on a failure to pay child support case and will issue an **order** instead of a warrant that contains words to the effect of "Defendant to be released upon proof of payment of the amount due" **without** issuing any subsequent bail order. In those instances, a bail commissioner should not set a bail and the jail should not require the Defendant to post a bond to secure his or her relief. If a bail commissioner is called in to

execute a bail bond in a case like this, he or she should decline to execute a bail bond and point out to the jailor that the per the Court's order the person should be released. If any questions remain concerning this, you should contact the criminal process manager.

Violation of condition of release in a bail bond

If the defendant violates the terms of his/her bail, the court or the district attorney's office may file a motion to revoke his/her bail. A common example of a violation of a bail condition is when a defendant fails to appear in court. If the Court grants the motion, a warrant for the defendant's arrest can issue.

In addition, the DA's office can charge the defendant with a new crime, Violation of a Condition of Release, 15 M.R.S. § 1092. If the charge for which the defendant failed to appear was a Class D or E Crime, the new charge of failure to appear is a class E crime (maximum 6 months incarceration, and up to a $1,000 fine); if the charge for which the defendant failed to appear was a Class A, B or C crime, the new charge of failure to appear is a class C crime (maximum 5 years' incarceration and up to a $5,000 fine). 15 M.R.S. § 1092.

You may be asking why does a bail commissioner need to know these details? It is because as a commissioner you have a responsibility to explain to the Defendant their obligation to appear at all court hearings and the consequences of failing to appear. In addition to the penalties described above, the bail that was posted will be ordered forfeited. If real estate was posted, the District Attorney can move to have the property seized and sold.

Probation Revocation Warrants

If a person on probation has violated his or her terms of probation, a Community Corrections officer (formerly known as a probation officer) can secure a probation revocation warrant. In those situations, bail commissioners are not permitted to **set** bail. A commissioner may **execute** a bail bond but only after the Court has determined the type and amount of bail to be set. In that situation, follow the order of the court.

Out-of-County Warrants

A bail commissioner's commission authorizes him/her to act statewide and it is not unusual for a commissioner to have to act on a warrant from another part of the state. This may occur in situations where during the process of setting bail on one charge it is discovered that the Defendant has additional charges in another county or where a Defendant chooses to "turn herself in" at a local correctional facility instead of traveling to anther county where the crime is alleged to have occurred. It may also occur when a law enforcement officer has contact with Defendant for one matter and during the course of the contact discovers that a warrant for the individual's arrest is outstanding from another county. If a commissioner accepts bail on a charge from another county the commissioner must forward all forms, cash, etc., to the clerk of the court where the charge is pending. Be careful in the handling of this paperwork and make sure that the right bond and funds get sent to the right clerk's office.

Out-of- County Bails

Occasionally, a Defendant being held on charges in one county may be temporarily housed in another county jail. This may occur due to overcrowding in one jail, the need for specialized services at another jail or other housing, transportation or security concerns. As a bail commissioner with statewide authority, you should handle these types of bails just like any other bail. Process the paperwork and send it to the appropriate Clerk's office.

CHAPTER NINE
FILLING OUT THE BAIL BOND

Initial explanations and requirements

Bail Commissioners are called upon in many different circumstances to fill out (often called execute) bail bonds and conditions of release forms. The first instance is in those situations where the judge has already set the bail type, the bail amount and the bail conditions. In those instances, it is incumbent upon the commissioner to follow the order exactly as set out in the Court's order.

Ordinarily, a bail commissioner will be able to tell from either the warrant for arrest or from the Condition of Release form (CR-002), that a judge had previously ruled on bail. If the warrant states "no bail allowed" a bail commissioner must follow that order and may not set bail.

At no time should a bail commissioner modify, change, alter or eliminate the bail amount, bail type or bail conditions set by the Court. There may be occasions when a bail commissioner is asked by a correctional official, law enforcement officer, victim or lawyer to change a bail already set by the Court. This is not permitted. Commissioners are not permitted to change, alter or otherwise ignore the contents of the Court's order. 15 M.R.S. §1023(4)(B).

Even if you have a situation where you question the bail amount, or bail conditions set by a judge, it is not your responsibility, and you have no authority to change the order of the Court. In these very rare instances, you should execute the bail bond as ordered and turn it into the Court. If there is a problem, the court and the attorney's involved in the case can address the matter at a subsequent court hearing.

It is also not uncommon for a judge or justice to set a bail condition of "no third-party bail". As explained in detail in Chapters 4, 8 and 10, this means that the court has decided that the commissioner should not accept cash or surety that belongs to another person for the Defendant's bail. In these circumstances, the bail commissioner must specifically inquire as to who owns the cash or property and only accept bail that is owned by the defendant.

The second set of circumstances is when a bail commissioner is called to the local police station or jail and asked to execute a bail bond on bail amounts and conditions previously set by another bail commissioner. This process is very common as often it will take time for a defendant to gather the necessary resources, bail amount or make arrangements for release.

In these instances, the Office of the Chief Judge has determined that a bail commissioner cannot change the bail set by another bail commissioner. If you learn of additional facts that you believe should alter the bail amount or type set, or where you believe you do not have authority to execute bail, please contact the bail commissioner who set the bail and obtain their approval to change the bail amount or conditions. If you are unable to contact the commissioner who set the original bail, contact the criminal process manager for advice.

For example, Bail Commissioner A is called to set a bail in a domestic violence case, Class D. It is reported to Commissioner A that it is a first offense, which would entitle the individual to bail. Bail is set by Commissioner A at $250 cash with a special condition of no contact with the named victim.

The next morning, Commissioner B is called to execute the bail bond. Upon arriving at the jail, Commissioner B learns that the Defendant gave false information to the arresting officer and upon further checking, learns that the Defendant has two prior convictions for domestic violence involving the same victim. These two prior convictions make the current offense a Class C crime.

In this case, Commissioner B is prohibited from executing the bail per 15 M.R.S. § 1023(4)(2) (the law prohibiting a bail commissioner from setting bail for any Class C Domestic Violence offense). Commissioner B should decline to set bail and should notify Commissioner A of what he/she learned. Commissioner B should also inform the jail of the reasons for refusing to set bail.

Sometimes, law enforcement or jail personnel will ask a bail commissioner to change the bail previously set by another bail commissioner due to a need to bring the defendant to a local hospital for medical treatment or for a mental health evaluation. The reason they would ask you to do this is that if a person is "in custody" many hospitals require that the jail or law enforcement agency post personnel at the hospital, 24/7, because the person is still considered

under arrest. This can get very expensive for the agency and can tie up personnel for hours, and sometimes, days at a time. The agency that has custody of the Defendant is often also responsible for any uncovered medical expenses incurred while at the facility.

In this case, the bail commissioner should call the previous commissioner, discuss the matter, gather all the pertinent facts and only if the change is appropriate, get permission to change the bail already set. In these cases, do not automatically agree to change the bail without first securing permission from the bail commissioner who set the bail. Bail commissioners should also verify that the individual is indeed eligible for bail and should set whatever conditions are appropriate for the situation. Remember, the decision to set bail is **that of the bail commissioner**, not law enforcement or a hospital.

On the other hand, if a person is under arrest based on a warrant issued by a judge or justice or a bail that has already been set by the court, and after they are arrested they require hospitalization or similar medical care, bail commissioners do not have the authority to change the bail set by the judge. Tell the arresting officer or the jail that you do not have the authority to change a bail set by a judge and that they will need to contact the prosecuting attorney to further address the matter.

A third situation occurs when a bail commissioner is called to set, and/or execute a bail bond on a case where a court has approved a warrant for an individual's arrest but has either left the bail amount and type blank or has indicated "bail to be set by bail commissioner". In these instances, the commissioner should first check to see if any other commissioner has been called or consulted on the bail for that individual. If someone else has already set bail, follow his or her decision. If no other bail commissioner has been called, use your common sense and training to determine if you can set bail then act accordingly.

Occasionally, a law enforcement official will call a second bail commissioner if he or she is not happy with the bail set by the first commissioner. This type of "shopping around" is not permitted and should not be allowed. If you suspect this is going on, inquire if another commissioner already set the bail. If they have, decline to act on the request to change or modify the previously set bail.

A fourth situation exists when a bail commissioner is called upon to bail someone who has been arrested on a warrant. Since June 2011, Maine has maintained an electronic (as opposed to solely paper) warrant system. Before a bail commissioner sets bail in these cases, the commissioner should ask for a copy of the electronic warrant information printout before making the bail decision.

DO NOT assume that the law enforcement agency, the jail or the emergency dispatch center has accurately or completely described the terms of the warrant, (including any bail set by a judge), the number of warrants or the charges involved. It is not uncommon for a bail commissioner to get called on a relatively minor offense, such as first offense Operating After Suspension, only to learn later that the Defendant has three other outstanding warrants for other more serious charges. It is best to inquire, double check and review all the pertinent materials before you act.

It is also best practice to actually review each charge and to inquire if the criminal record and warrant check has been completed to ensure that no other outstanding warrants or charges exist or that the individual is already out on bail before you act.

A fifth situation occurs when a bail commissioner is called to set bail on an individual who has just been arrested by law enforcement. In this situation, no judge has been consulted. This type of bail situation is the most common one encountered by bail commissioners. The bail commissioner is charged with gathering the pertinent information, determining whether the commissioner has the legal authority to set bail and then if permitted, set the bail and necessary conditions in accordance with the Maine Bail Code.

Filling out the Bail Bond

Preliminary Matters

Bail Commissioners have several different forms that they must use whenever they execute a bail. If a defendant is to be released on a personal recognizance (PR) bail, secured bail or an unsecured bail, the Commissioner should prepare the form entitled Bail Bond. It is identified not only by its caption at the top of the page but also by the form number CR-001 which can be found in the lower left-hand corner. This form consists of 1 original white colored page plus 4

carbon copy sheets of various colors. Each colored sheet is clearly marked at the bottom with a label that states to whom that page is to be given to.

The most recent version of the Form was revised in July 2017. Bail Commissioners should always check the lower left-hand corner to be sure that they have the most recent form (CR-001, Rev. 7/17). Bail Commissioners are charged with ensuring that they are using the most recent court forms. Do not use outdated forms. When in doubt, contact the criminal process manager or your local clerk's office. Bail commissioners are not to be charged for securing a supply of the forms and can get them at any District or Superior court location.

If the bail commissioner determines that multiple or detailed bail conditions must be assigned, the commissioner should use the Bail Bond, CR-001 and the Conditions of Release form, CR-002. Both CR-001 and CR-002, which is also a multi-page form, permit a commissioner to give copies to various parties to whom need to have copies. Like the Bail Bond, each colored sheet is clearly marked at the bottom with a label that states who the copy is to be given to. The most recent version of CR-002 was also issued in July 2017. Again, bail commissioners should double-check the dates on the forms and use the most recent form.

In every instance, it is imperative that not only that the forms be fully, neatly and clearly filled out but also:

1. The Defendant sign the bail bond
2. The Defendant is given his/her copy of the bail bond
3. The Defendant sign the conditions of release form
4. The Defendant is given a copy of the conditions of release form
5. Any surety or third-party signs the appropriate portion of the forms
6. The third-party is given a copy of both the bail bond and the conditions of release form
7. The bail commissioner verbally explains the forms to the Defendant and any surety or third-party
8. The bail commissioner explains to the Defendant and the third-party their respective responsibilities under the bond; and
8. The bail commissioner signs each form and ensures that the forms are submitted to the court in a timely manner (See chapters 11-14 for further details).

Before you begin filling out the bail bond, there is information you will need to gather to ensure that you have the appropriate information needed to complete your duties. The following is a checklist of information needed:

1. Biographical information concerning the defendant. This information is similar to what is on a person's driver's license or another ID. This includes their full name, date of birth, residence and mailing address, telephone number(s), driver's license information and a physical description (height, weight, eye, hair and skin color, gender), and social security number[1]. You must verbally verify all this information with the Defendant by asking them if it is correct.

2. A complete description of the charge(s) including the name and class of offense, state sequence number for each count as well as the ATN (Arrest tracking number) and CTN (Count tracking number).

3. A description of the offense including whether there are any victims and the victim's name, date of birth, addresses[2] and contact information.

4. An understanding of the Defendant's criminal history.

5. If the offense involves a charge of domestic violence assault or domestic violence criminal threatening with a dangerous weapon, the ODARA score.

6. The Defendant's prior history, if any, of appearing or failing to appear in Court.

7. Information pertaining to the Defendant's ties to the community, history of failing to appear and other factors as described in Chapters 4-6.

8. Whether the Defendant is currently out on bail, on probation or on a deferred disposition.

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[1] The Court requests that Social Security numbers be provided for later use for fine collection purposes. However, you cannot compel an individual to provide the number nor can you refuse to bail someone who refuses to give you his or her social security number or who doesn't have one.

[2] Confidentiality of victim addresses and contact information was discussed in Chapter 7.

You should make your very best effort to gather all this biographical information and to have it available to include in the bail bond. It will not be uncommon to have a situation where a person does not have an official ID with them from which you can verify their information. In that instance, you should verbally ask the Defendant each of the questions and get a verbal reply from them. Do not rely solely on police or jail records for this information. If the person has been arrested or jailed before, their file may contain outdated or incorrect information.

As to the description of the charges, the ATN and CTN and the Sequence number, it is the obligation of the arresting law enforcement agency to provide you this information. Do not guess at this information or try to figure it out yourself.

You should insist that the arresting officer or agency provide it to you. Often this information is already contained on the summons that the officer leaves at the jail or can be found in the statement of probable cause or affidavit. If neither is present, inform the arresting officer or his or her agency that you cannot bail the individual until you have the information.

Individuals charged with more than one offense

If an individual is charged with more than one offense, the following rules apply:

1. If the person is charged with multiple counts arising out of the **same** incident put all the charges on a single bail bond. If necessary, use a second bail bond to list the other charges and scratch out the Bail ID number at the top of the second bond. In its place write the first Bail ID number and the phrase "continued, page 2".

2. If the person is charged with multiple counts, you must list each one out. Do not write phrases such as "multiple charges" on the bond. If the Defendant is charged with 14 burglary counts and 15 theft counts, list them as Burglary-14 counts, Theft-15 counts.

3. If the individual has been arrested for multiple offenses from different docket numbers, you must fill out a **separate** bail bond for each separate docket number.

4. If the individual is charged with multiple offenses from different locations that would require them to appear in different courts, you must make out separate bail bonds for each court location.

For example, defendant is arrested by a state trooper at the scene of a burglary in Vasselboro. He is in possession of four unique works of art that were reported stolen in a burglary in Lewiston. Further investigation revealed that he was responsible for burglaries and thefts in York, Portland, and Rockland and that there were warrants out for his arrest in each of these towns.

In this example, you would be required to make out separate bail bonds for the Lewiston, York, Portland and Rockland cases (based on the warrants that had been issued by the Courts in those respective locations) as well as another bail bond for the Vasselboro case. This is because each of these offenses occurred in different towns, are in different counties and the Defendant will have to appear at different courts for each of the events.

In the following pages, you will find a copy of the bail bond-front and back (Court Form # CR-001) and the Conditions of Release Form (Court Form # CR-002). While the official forms do not contain the red numbering system, they are being presented here as a guide to explain what information is needed, where to get the information and, where necessary, an explanation of what the different portions mean. If you follow this red numbering guide and ensure that all sections are completely and properly filled out, you will be doing your job well and will be forever appreciated by the defendants, lawyers, jail personnel, clerks and the Court.

1 BAIL BOND ☐ AMENDED

2☐ UNIFIED CRIMINAL ☐ DISTRICT ☐ SUPERIOR CT located at 3 _____ Docket No 4._____

5.STATE OF MAINE v. _____, Defendant

6 Defendant's mailing address _____

7 Defendant's residence address (if different): _____

8 Date of Birth _____

SS Number Disclosure Required on separate form

9 Hair Color_____ 10 Eye Color _____ 11 Height_____ 12 Weight _____ 13 Gender _____ 14 Race _____

15 Home phone # _____ 16 Work phone #_____ 17 Cell phone #_____

18 For Title 29-A violations, driver's license number required _____ 19 State _____

20 Date of Offense(s) _____ 21Location of Offense(s)_____

22 Offense(s), Class of offense, Seq #, Title & Section, ATN/CTN of each offense:

_____

_____

23 Law enforcement officer and agency: _____

The following apply if checked:

24☐**PERSONAL RECOGNIZANCE.** I am released on my promise to appear.

25 ☐**UNSECURED.** If I fail to appear as this Bail Bond requires I will owe the State of Maine $_____.

26 ☐**SECURED.** To be released from custody the following property is being posted. The property is:

27☐ Cash in the amount of $_____ (see reverse for designation of third-party ownership) **OR**

28☐ Real estate (or _____) with a net value of $_____.

29☐Bail Lien.30 ☐ Within 1 working day after today.31 ☐ Before I may be released, a lien on real estate described must be recorded in the Registry of Deeds in the county where the real estate is located, and proof of such recording must be filed with the clerk of the court listed above. (Note: The Registry of Deeds and clerk's office are different offices and may be in different counties.)

32☐**CONCURRENT.** This bail is concurrent to the bail previously posted in (list court and docket number): _____

I agree to obey the following conditions of my release so long as this bail bond remains in effect. I understand that it is a crime for me to violate any of these conditions, and that if I violate these conditions I will be subject to arrest, jail and/or a fine.

33 1.I will appear at the Unified Criminal Court located at _____

34 in _____ (City/Town),35 _____ (County) Maine, 36 Tel # (207) _____,

37on _____ at 38 _____ (a.m.) (p.m.) and on any other date and time and at the court the justice, judge or clerk tells me to appear.

2. I will commit no criminal act and will not violate any protection from abuse orders.
3. I will immediately give written notice of any change in my address or telephone number to the court named above.
4. I waive extradition to the State of Maine from any other State of the United States, from the District of Columbia, from any territory of the United States, and from any other jurisdiction whatsoever, for prosecution on the charge(s) above.

Additional conditions which I agree to obey, if checked. I will not:39 ☐ use ☐ possess **OR40** ☐ excessively use or possess 41 ☐ alcohol; and

42☐ use **43**☐ possess **OR**44 ☐ excessively use or possess 45 ☐ marijuana or marijuana products; and

46 ☐ use or possess 47☐ any illegal drugs or their derivatives; and 48 ☐ use or possess 49 ☐ any dangerous weapons or 50 ☐ firearms.

51 ☐ In order to determine if I have violated any prohibitions of this bond regarding alcoholic beverages, illegal drugs or their derivatives, marijuana or marijuana products or dangerous weapons, I will submit to searches of my person, vehicle and residence and, if applicable, to chemical tests

52 ☐ at any time without articulable suspicion or probable cause 53 ☐ upon articulable suspicion.

54 ☐ participate in an electronic monitoring program.

55☐ have no direct or indirect contact with (*name and dob)*_____

_____ except as is necessary

56☐ for counseling; 57 ☐ to pay child support; 58 ☐ for child contact; 59☐ by telephone; 60 ☐ _____

61☐ and not enter any 62☐ residence 63 ☐ place of employment 64 ☐ place of education of any such person(s)

65 ☐ except for a single time, while accompanied by a police officer, for the purpose of retrieving defendant's personal effects.

66 ☐ not operate any motor vehicle under any circumstances 67 ☐ unless lawfully licensed to do so.

68☐ **Defendant cannot be released unless a supervised bail contract is executed and approved by the Court. Def. must abide by contract conditions.**

69☐ _____

70☐ As a condition of my release, I shall comply with any condition(s) set forth on the Conditions of Release form.

71☐ **THE CASH BAIL HAS BEEN POSTED BY A THIRD PARTY**

I have read and I understand all my obligations under this bond. Defendant: 72_____

I have explained the defendant's (and if applicable, the surety's/third party's) obligations under this bond on this date and will give a copy of this form to the defendant and surety/third party immediately after signing it.

Dated:73 _____ at 74 _____am / pm. _____ _____

At 75 _____, Maine. 76 Justice /Judge/Clerk/Bail Commissioner 77 Printed Name of Bail Commissioner

CR-001, Rev. 07/17

DEFENDANT AS SURETY

78I, _____, defendant, certify under oath that I own real estate situated in Maine at 79_____(address),80 _____(city/town), 81_____(county), which has a total value of $82_____, with encumbrances, and has a net value of $83_____. I UNDERSTAND THAT IF I FAIL TO APPEAR IN COURT AT ANY TIME I AM REQUIRED TO APPEAR, OR COMMIT ANY CRIMINAL ACT, OR VIOLATE ANY CONDITION OF BAIL, I MAY FORFEIT SOME OR ALL OF THE ABOVE REAL ESTATE AS THE RESULT.

Date: 84_____ 85 _____ Defendant

86 _____ Address

SURETY

I, 87_____, agree to act as surety under this Bail Bond and certify under oath that I own real estate situated in Maine at88 _____ (address),89 _____ (city/town), 90_____(county), which has a total value of $91_____with encumbrances, and has a net value of $92_____. I understand that, by agreeing to act as surety for the defendant, I am promising that I will assure the defendant's appearance in whatever court requires the defendant's appearance, whenever required on the criminal matter described on the other side of this form, and I will assure the defendant's compliance with each condition of release, including that the defendant refrain from new criminal conduct. IF THE DEFENDANT FAILS TO APPEAR AT ANY TIME WHEN THE DEFENDANT IS REQUIRED TO APPEAR, OR COMMITS ANY CRIMINAL ACT, OR VIOLATES ANY CONDITION OF BAIL, I UNDERSTAND THAT I MAY FORFEIT SOME OR ALL OF THE ABOVE REAL ESTATE AS THE RESULT.

Date: 93_____ 94 _____ Surety

95_____ Address

SURETY

I, 96_____, agree to act as surety under this Bail Bond and certify under oath that I own real estate situated in Maine at 97_____ (address), 98_____ (city/town), 99_____(county), which has a total value of $100_____with encumbrances, and has a net value of $101_____. I understand that, by agreeing to act as surety for the defendant, I am promising that I will assure the defendant's appearance in whatever court requires the defendant's appearance, whenever required on the criminal matter described on the other side of this form, and I will assure the defendant's compliance with each condition of release, including that the defendant refrain from new criminal conduct. IF THE DEFENDANT FAILS TO APPEAR AT ANY TIME WHEN THE DEFENDANT IS REQUIRED TO APPEAR, OR COMMITS ANY CRIMINAL ACT, OR VIOLATES ANY CONDITION OF BAIL, I UNDERSTAND THAT I MAY FORFEIT SOME OR ALL OF THE ABOVE REAL ESTATE AS THE RESULT.

Date:102 _____ 103_____ Surety

104_____ Address

AGREEMENT TO CONTINUE TO ACT AS SURETY POST-CONVICTION

In the event that the defendant is found guilty I 105☐ AGREE ☐ DO NOT AGREE to continue to act as surety during post-conviction proceedings under the terms of this bond. I understand that, if I agree to do so, I still have the right to terminate my surety agreement at any time by following the requirements of 15 M.R.S. § 1073.

Date: 106 _____ 107 _____ Surety

Date: 106 _____ 107 _____ Surety

ASSIGNMENT OF CASH BAIL POSTED BY THIRD PARTY

The cash bail that has been posted for the release of the defendant belongs to108 _____, DOB: 109_____, whose mailing address is110 _____ and who understands that ALL OF THE CASH MAY BE FORFEITED IF THE DEFENDANT FAILS TO APPEAR AT ANY TIME WHEN THE DEFENDANT IS REQUIRED TO APPEAR, OR COMMITS ANY CRIMINAL ACT, OR VIOLATES ANY CONDITION OF BAIL. I FURTHER UNDERSTAND THAT SHOULD I OWE THE COURTS ANY AMOUNT OF MONEY FOR COURT FINES, ASSESSMENTS, JUDGMENTS, OR OTHER COSTS, THIS CASH BAIL WILL BE USED TO PAY THOSE DEBTS AND ONLY THEN WILL ANY REMAINING FUNDS, IF ANY, BE RETURNED TO ME

Date: 111_____ 112 _____ Signature of Affiant

OATH OF SURETY, DEFENDANT, AFFIANT

The surety(ies), defendant, affiant, whose signature appears above and whose name(s) is/are (print)113_____ _____ personally swore to me under oath that the statement is true.

114_____Justice/Judge/Clerk/Bail Commissioner

Instructions and tips for filling out the Bail Bond by the red numbering system.

Item # 1- This refers to the **bail bond type** and contains a check box before the word amended. If this is the first time that bail is being set in the matter before you, you need not do anything. If, however, you are executing a bail bond and you have been given information that the Court has amended a previously set bail in that case, you should check off the amended box. You can usually tell the bail has been amended by a notation from the Clerk's office on the Condition of Release Form indicating it is an amended bail.

Item #2-This item refers to the **different courts**. A bit of court history is in order here. Before 2009, criminal cases were heard in either the District Court, generally misdemeanors, i.e. Class D and E crimes, or the Superior Court, generally Class A, B and C crimes (felonies) and cases where a person had either requested a jury trial or had been indicted by the Grand Jury. Beginning in 2009 the Maine Judicial Branch began a process of unifying the two criminal court types into a single unified criminal docketing system in each county. Over the course of the next six years, extensive analysis and planning took place before a single unified system was launched in each of the 8 judicial regions. The last of the regions came on line in 2015.

This information is important for bail commissioners to know because depending upon the age of the case, and the court location (town or city) the name of the court that needs to be checked off, will vary. The simple rule is this: For all new cases filed **after** July 1, 2015, the box marked Unified Criminal should be checked off.

For cases filed **prior** to July 2015, you should look carefully at either the docket number (located on the warrant) or the summons to determine where the bail bond should be filed. This can usually be determined by the following abbreviations:
UCD= Unified Criminal Docket
DC=District Court
SC=Superior Court.

Item #3-Please fill in the name of the town where the **court is located**, not the town where the offense occurred. For instance, for the Cumberland

County Unified Criminal Docket or Superior Court, for a case originating in South Portland, you should list Portland as the location. This is because the Cumberland County Courts are in Portland and this court is charged with hearing cases from South Portland. Please see Appendix E for a complete listing of the Courts, their abbreviations, their addresses and phone numbers and the towns each court covers.

Item #4- This item refers to the **unique docket number** that is assigned by the court to each case. It is identified by the number and location assigned. For example, if you see the docket number PENCD-CR-2016-00120, that tells you that this is a case from Penobscot Unified Criminal Docket, (PENCD), is a criminal case (CR), that the case was filed in 2016 and that the file number is 00120. It is very important that you carefully record the correct docket number whenever you fill out a bail bond. If you fail to enter the docket number, or enter the wrong or incomplete information, it requires a considerable amount of clerk time to track down and properly credit the bail to the right file.

Docket numbers will be assigned if a person has been indicted by the grand jury, there has been a request for a warrant on an affidavit or if the person had previously been charged but failed to appear in Court. Best practices dictate that you review the file to determine if there has been any previous court action in the case. If there has been, you should locate the docket number and insert it here.

There are instances where an individual has just been arrested for the first time and a court filing has not yet occurred. In these instance, there will not be a docket number available. In those cases, you should just leave this item blank.

Item #5- This is the line where you write in the **defendant's full name**. Please use the individual's legal name and avoid using nicknames, slang terms, abbreviations, initials, etc. and be sure that the name on the bail bond matches the name on the arrest warrant or summons. In other words, unless a person's legal name is Jonnie B Walker Jr., you should enter his name as John B. Walker Jr., not Jonnie Walker or JB. Likewise, if an individual's legal name is Jessica, please write Jessica not Jessie or Jess. You can usually get a person's legal name from their driver's license, other form of identification like a passport or by simply asking the person for their legal name.

If they do not have identification on them, ask the individual to spell out their full legal name for you. It is best practice to read the spelling of their name back to them to be sure you have spelled it correctly. Don't assume, for instance that a person spells their first name as Catherine, instead of Catharine, Katharine, Katherine or Kathryn.

Be aware of a couple of different name configurations that can be confusing. First, in some non-English languages, it is not unusual for a person's surname to be the first and their given name the second on their identification. Second, if the person is a Jr. or has other abbreviations after their name (the II, III or IV) be sure to record that as well. Third if a person has a hyphenated name such as Smith-Jones, be sure to record both names in the proper order. Finally, if you receive reliable information that the person has been known by another name, an alias, a maiden name, or has had criminal charges filed against them under another name, you may well be advised to write both names as follows: Annie Smith A/K/A Anna Smyth. A/K/A stands for also known as.

Item #6- This is the line that you write in the **mailing address** where the defendant can receive hearing notices, information or decisions from the court. It is vital that the address provided be filled out completely and is one where the individual can reliably receive mail. Be sure to include the town and state. An address of 261 Main Street, with nothing more, is unacceptable.

A mailing address can be their home address as well as a post office box, a business where the defendant works, at an office of a social service agency where the defendant regularly receives on-going services (for example the office of the caseworker assigned to them), a local shelter or the home of a friend, co-worker or relative who will get the mail to the defendant in a prompt manner.

Item #7- A defendant may have two addresses-one where he or she lives and another where her or she gets mail. A common example of this would be for the defendant to live at 2225 Coffee Pond Road in Casco but they get their mail at PO Box 432 in Raymond, Maine. This item should be the address where they will be **living.** This information is important for purposes of bail checks (if any bail conditions involving a search or curfew are set) and to ensure in

domestic violence cases that the defendant has not gone back to live with a victim in violation of a no contact order.

It is important that a complete address be listed here. Simply saying US Route 1 Houlton is insufficient. You need to be sure to put in a house number and that the full street name (Street, Drive, Way etc.), city and state are listed. If they live in an apartment, or mobile home park, the apartment or lot number should also be listed. As an example, a Clerk's office recently received a bail bond where the residence address was listed as 221 4th street. There was no city or state listed. In another case, the residence address was listed as PO Box 427 Biddeford. While a PO box may be sufficient for mail purposes, a person does not reside in a PO box.

As previously discussed in Chapter 7, in all cases where a condition of bail involves a no contact provision with a witness or victim, be sure that the residence address listed is **different** from the victim or witnesses address. You should inform the defendant that when the condition of no contact is imposed they are prohibited from returning to the residence and cannot be released on bail until they have a residence address that is different from the residence address of the victim. Often this may be a temporary address such as a friend's house or a local hotel or shelter. In those instances, tell the defendant that as soon as more permanent arrangements are made, they have an obligation to immediately notify the Court, in writing, of their new address. Point out the mandatory reporting of change of address section of the bond to them.

Item #8- The defendant's **complete date of birth**, in numerical format, (month, day, year) such as 09-10-1958 is required. Please be sure to use this format and use a 0 before any date or month that is less than 2 digits. This is used for verification purposes and becomes a permanent part of the court's records. It is also used for the permanent criminal history record so careful attention to detail here is important. Please be sure to double-check the date with the defendant by repeating back to him or her the date of birth and verifying it is correct.

Keep in mind that in some countries, like England, it is common to list the day first, not the month. In those instance, repeat back the date of birth by the day, month year, format, i.e. the 8th of February 1994, and verify it with the

defendant. Once you have verified the information, enter it in the month/day/year format (02/08/1994) described above.

Items # 9-14- These are the **standard identifying personal information** factors that should be entered. A few of pointers:

Item # 9. For **hair color**, use the person's current hair color. Here are the codes that the emergency communication centers use for entry of hair color into the METRO computer system:

BRO=brown
BLK=black
BLU=blue
GRN=green
BLN=blond
GRY=gray
RED=red
WHI=white
PNK=pink
ONG=orange
XXX=bald

Item # 10
For **eye color** use the persons' natural eye color, not the color of their contacts. You should use these METRO abbreviations to enter eye color:

BRO=brown
BLK=black
BLU=blue
GRN=green
HZL=hazel

Items # 11-12
For **height and weight** ask the individual. Be careful about solely relying on a driver's license or jail records for this information. Remember, a young person who got his first license at age 16 may have had 5'10" and 145 pounds listed on that license but three years later is now 6'2" and 200 pounds. Use your common sense, and good manners, when asking this information and listing it.

Item # 13
For **gender**, there are currently three choices approved by NCIC (the National Crime Information Center) at the FBI -F (female), M (male) U (unknown). As such, simply inquire of the individual which one they are and record it as provided to you.

In June 2018, the Secretary of State's office announced that it was adding an additional choice of X for individuals who identify as neither male nor female. Until computer programming and license design changes are completed in July 2019, the changes will be noted by a sticker on the back of the individual's Maine driver's license. If you see such a sticker on the back of a person's license, simply note the X designation in the gender box on the bail bond.

Item # 14
For **race,** please enter the standard race information used by the FBI. The current choices are: White, Black, Asian, Native American, Alaskan Native American and Native Hawaiian or other Pacific islander. This is not the place to write country of origin or general description. For example, if a person tells you they are Vietnamese, you should enter Asian, not Vietnamese, in this slot.

Items #15-17- The Court requires that each defendant have **at least one phone** number listed so that in the event of a sudden court closure, or change of court hearing date or time, the person can be contacted. If they state that they do not have a phone ask for the number of family member, co-worker, social worker or friend who can receive and transmit a message to them.

With today's changing telephone systems, not everyone will have all three numbers. Secure at least one number. Please be sure to include the area code and verify it with the defendant.

Keep in mind that just because someone lives in Maine does not mean that his or her cell phone number originates in the 207 area code. For instance, if someone works for a company whose home office is located outside of the Maine, the area code for his or her cell phone may not be 207. Likewise, a person or family member may have first secured a cell phone number out of state and then brought the phone, and the number, with them when they moved to Maine.

Items #18-19- Title 29-A (and previously Title 29) is Maine's Motor vehicle code. Anytime the crime alleged is a **motor vehicle related offense**, you need to secure their driver's license number and the state where the individual has a driver's license. This is true even if the license is under suspension or revocation. You get that information either from the individual's driver's license or from the motor vehicle history that should accompany the police report or criminal history search. If the individual has never had a license, simply write in the phrase "never licensed" on the form. Don't forget to list the state, province or country, that issued the license. Double check this information. For example: A student at the University of Maine may have an apartment in Orono for the school year, but their driver's license was issued in Massachusetts. Always confirm with the defendant the name of the state or province that issued the license.

Item # 20- The **date of offense** is the date the crime is alleged to have been committed NOT the date the person was arrested or charged. Pay careful attention to this-especially around the midnight hour. Sometimes a crime will be committed at 11:30 pm on the 6th but the person is not brought into the jail or police station until 1 or 2 am on the 7th. In this instance, the date of the offense is the 6th not the 7th. Occasionally, a specific date will not be listed but instead the information will be August 2012. If this is what is provided to you in the official police report, summons or affidavit, enter it as provided.

Item # 21-The **location of the offense** is the town or city, or in very rural areas of the state, the Township and Range where the offense occurred, not the location of the arrest. Ordinarily speaking, the location of the offense is provided to the bail commissioner by the officer or agency responsible for charging the individual.

You do not need to list a street address here; the town or city is sufficient. As an example, Defendant is accused of the crime of assault in Biddeford. When the police arrive at the scene, he flees. Twenty minutes later he is located and arrested in Saco. The offense location is Biddeford not Saco.

Sometimes questions arise as to what to put down on this line when a person is arrested on a warrant charging failure to appear. This often happens when an officer has arrested someone for one offense. When the officer runs a check through the METRO system, he or she learns that there is a warrant out for the defendant's arrest on another charge for failing to appear in court. In

this situation, the date and location of the offense on the FTA warrant relate back to the **original charge**, not the place of arrest on the warrant. Remember, you will have to complete two separate bail bonds- one for the FTA on the underlying charge and one for any new criminal conduct.

On occasion, you may be asked to set a bail on a warrant on an affidavit. You may not see or have information concerning the location of the offense and the arresting agency's name will not tell you where the offense occurred. This can occur when the arresting agency is a Sheriff's Department or the State Police as both of these agencies cover multiple towns. In that instance, enlist the help of the arresting officer, jail or local dispatch/regional communication center and ask them to look up the name of the ORI (Originating Agency) and originating officer and then place a call to them to get this information.

Item #22- Aside from the Defendant's identifying information, this item is one of the most important items on the bail bond. The bail bond serves multiple purposes, one of which is to be the initial identifying document for various charges that are filed. This bond lets the Court know what the defendant is charged with, which part of a statute a person is charged with and the arrest number and number of counts a person is facing. The bond is then used to match up the initial charges with the criminal complaint once the District Attorney files the charges.

Some definitions and explanations are now in order.

The Offense is the common name of the crime such as assault or operating under the influence.

The Class of offense is the class of the crime. Maine's statutes divide criminal offenses into 6 categories: Murder, Class A, Class B, Class C, Class D and Class E offenses. Class A offenses are the most serious. Class B follows and then Class C, D and E offenses. Often, class A, B and C offenses are referred to as felonies and Class D and E offense are called misdemeanors.

It is important that when a bail commissioner first gets called about setting a bail, and then when he or she goes to execute the bail, that the bail commissioner check with the officer or dispatch center and confirms the class of crime for the offense before setting bail. If this is not provided, the bail

commissioner should decline to set or execute bail until this information is provided.

This is because many crimes have different classes depending upon the facts, the offense and prior criminal history. It also determines whether a bail commissioner can even set bail. For instance, in a domestic violence case, if it is a first offense with no prior domestic violence convictions in Maine or another state, and the injuries, if any, are minor injuries at most, the offense is generally classified as a class D offense. 17-A M.R.S. § 208-A. However, if the defendant has one or more prior convictions for domestic violence assault (17-A M.R.S. § 208-A), domestic violence criminal threatening (17-A M.R.S. § 209-A), domestic violence terrorizing (17-A M.R.S. § 210-B) domestic violence stalking (17-A M.R.S. § 210-C), violation of a protection from abuse order (19-A M.R.S. § 4001(1)), or violation of conditions of release (15M.R.S.§ 1092 (1)(B)) (when the offense relates to the victim and the victim is a family or household member), or for similar offenses out of state, the offenses are classified as a Class C offense and a bail commissioner is not allowed to set bail. 15 M.R.S. §1023(4)(B-1).

The sequence number is the unique number assigned by the Judicial Branch's computer information system to each crime and crime variant contained in Maine statutes. M.R.U.Crim.P. 57(h). These numbers are used to track criminal charges as they advance through the system as well as to report offenses and each charge's outcome to the State Bureau of Identification and the Federal Bureau of Investigation's national criminal records file. FBI criminal records are often referred to as a Triple I record.

The number of different sequence numbers a crime may have depends upon the language of the statute and the various ways the crime can be committed. For example, the offense of Assault While Hunting, found in 17-A M.R.S. § 208-A, has one sequence number assigned to it as there is only one section, or way, that the crime is defined. On the other hand, the offense of Gross Sexual Assault, found in 17-A M.R.S. § 253, has dozens of different sequence numbers because there are multiple ways this crime can be committed based on the age of the victim, the circumstances and method of commission of the crime, the relationship of the offender to the victim and the class of crime assigned to that subsection.

The arresting officer or that officer's agency should provide the sequence number to you for each count charged. DO NOT guess at the number(s) or rely upon your memory to record this number. It is the responsibility of the officer, the regional communication center, the dispatch center or jail if the officer is not available, to secure and provide this number. If they fail to provide the number, decline to execute the bail until you have it. Please pay careful attention to the number when recording it on the bail bond.

The title and section number is the statutory citation for the offense. This is important as the Clerk's office relies upon this to verify that the title and section numbers match the sequence numbers listed on the bond. An example of this would be 17-A M.R.S. § 208-A. This is the title (17-A) and section (208-A) statutory cite for the crime of Assault While Hunting.

The ATN- The ATN (arrest tracking number) is the unique identifier for a formal action undertaken by a criminal justice agency that initiates criminal charges. M.R.U.Crim.P. 57(a). It is a seven-character identifier with the first six characters being a number while the seventh character is a letter. There is a separate ATN for each separate criminal occurrence. These numbers are assigned by the Maine State Police through the METRO system and should be supplied to the bail commissioner by the arresting officer or the jail.

ATN numbers are required for all criminal cases EXCEPT any class D or E crime in Title 12 (Fish and Wildlife, Marine Patrol, Forestry crimes), or Title 29-A (motor vehicle violations) UNLESS the crime involves hunting while under the influence of intoxicating liquor or drugs or while having an excessive blood alcohol or the operation or attempted operation of a motor vehicle, watercraft, all-terrain vehicle, or snowmobile while under the influence of alcohol, drugs or with an excessive blood-alcohol level. M.R.U.Crim.P. 57(a).

This unique number is used to track a case through the system and ensure that the charges and dispositions in a case are properly recorded and not mixed up with another case.

The CTN- Is the unique identifier that designates each specific charge associated with a formal action undertaken by a criminal justice agency initiating criminal charges that is designated by the ATN. The CTN is a three-character number and like the ATN is assigned by the Maine State Police

system. A criminal charge that does not require an ATN will not require a CTN. The easy way to remember the difference is that the ATN is assigned to an incident while the CTN is assigned to each separate count within that incident. For example, if a person is arrested for smashing out a window, entering a local convenience store and stealing beer and cigarettes, there would be one ATN for the incident and three CTN's for the three-separate offense involved: Criminal Mischief, Burglary and Theft.

Item #23- Law Enforcement Officer and Agency: This is the responsible officer's name and agency, not the officer who may have happened to execute a warrant on another agency's charge. For both original offenses, and when a person is arrested on a warrant, it is the officer who initially charged the individual or who is primarily responsible for the case whose name and agency should be listed. For example, Defendant is charged by the Maine State Trooper Sean Jones for an OUI. He is bailed and told to appear in court on the 12th of December. The defendant fails to appear and the Court issues a warrant for his arrest. Four months later, Brewer Police Officer David Smith stop him for speeding (a civil violation) and during the incident discovers the warrant and arrests him. When the bail commissioner fills out the bail bond, Trooper Sean Jones, not Officer David Smith, should be on the bond. This information is available on the warrant teletype.

Whenever possible and available, you should record the arresting officer's first and last name. While some law enforcement officers have in the past objected to providing their first name, it is important to record both as often there is more than one officer with the same last name or the officer may work full time for one agency and part time for another.

For example, the Maine State Police currently have a pair of twins working as troopers. Simply recording their last name will not provide sufficient information to the Clerk and District Attorney's Office as to which trooper brought the charges. Likewise, it is not unusual for siblings, cousins or a married couple, both with the same last name, to work in the same police department. Finally, it is not unheard of for unrelated persons with the same last name to work in the same agency. Do not delay processing a bail bond if you can't secure the officer's first name.

Items #24-26- As discussed in chapter five, these three boxes set out the different **types of bail** that may be ordered. You must choose one of them for

each bail bond. If the court has issued a Condition of Release form, you must enter the bail type and amount that the Court ordered.

Personal Recognizance (**Item # 24**) does not require any property or cash to be posted for bail. If you are setting the bail, you may impose any condition(s) that you feel is reasonably related to the purposes of the bail code as discussed in Chapters four through eight. Remember, the purpose of bail is not to punish or to put unnecessary restrictions on a defendant. Remember too that the intent of the Bail Code is to impose the least restrictive release alternative that will reasonably ensure the defendant's appearance, otherwise ensure the integrity of the judicial process, ensures the defendant refrains from committing new crimes and when applicable, to reasonably ensure the safety of others in the community. 15 M.R.S § 1002.

Unsecured Bail (**Item # 25**) is the defendant's promise to appear. You will not collect any bail money when you execute this kind of bail. But, if the defendant fails to appear in court when required, the court will issue a warrant for his/her arrest and, in addition, order a civil judgment against him/her in the amount set by the bail bond. 15 M.R.S. §1094; M.R.U.Crim. P. 46(f). The court may also order a civil judgment against the defendant in the amount set by the unsecured bail bond if the defendant violates any other condition of pre-conviction bail. 15 M.R.S. §1094.

If you choose to use this method, keep in mind that a failure to appear will require additional efforts and court time to collect on the unsecured amount so you should ask yourself, is this necessary or will a personal recognizance bail serve the same purpose?

Secured Bail (**Item #26)** This form of bail involves delivering something of value to the bail commissioner or to the court as a guarantee that the defendant will appear in court when he/she is required to do so, and that the defendant will abide by all conditions of his/her release. What is delivered is either cash, an interest in real estate, or personal property (items such as jewelry, a snowmobile or a car). Cash bail is preferred, and interest in real property is acceptable. The acceptance of personal property is strongly discouraged and should not be accepted unless a judge has entered a specific order allowing this type of property to be posted. This is because there is no safe and secure place for storage of personal property items. Additionally, there is no reliable means by which a bail commissioner can accurately

determine the real value of the item of personal property. The best rule to follow is, unless it has been previously approved by a judge, **do not** accept personal property as bail.

If you choose to impose secured bail you must then check off EITHER **Item # 27**-cash, and insert the cash amount required, or **Item # 28-**Real Estate and insert the value of the bail amount, not the net value of the property, in the appropriate box. **Do not** check off both Items # 27 and 28 and unless the Court has ordered it, **do not** require two different pieces of property for real estate. This practice, formerly known as double surety bail, is rarely used by the courts and often just creates additional confusion.

Item # 27 Cash Bail - If you choose to set cash bail, write in the cash amount in Item # 27 and be sure to check off the box in front of the line and fill in the cash amount. Please write the cash amount in numeric format ($250) not in long hand (two hundred and fifty dollars).

Third Party Bail

Remember, the cash presented for bail may belong to the defendant or it may belong to someone else who is called a third-party. Under Maine law, cash bail is presumed to be the property of the Defendant. Unless the third-party assignment on the back of the first page of the bail bond (white copy) is filled out-**Items # 108-112** and signed under oath by the third party, **and Item # 71** on the front of the bond is checked, the cash bail will be used to pay the Defendant's fines, fees, court appointed counsel fees, if any, and/or restitution. 15 M.R.S. §1074. The cash will NOT be returned to the third party if Items # 71 and #98-102 9are not properly filled out[3].

Please pay careful attention to these requirements.

In every case where you accept cash bail you should specifically ask both the Defendant and the person providing the cash "Whose money is this?" As a bail commissioner it is your responsibility, not the intakes personnel's or the

[3] Maine law also provides that even if it is properly declared as third-party bail, before the funds are returned to the third-party the court will check to see if the third-party owes any fines, fees, court appointed counsel fees or restitution. If they do, the money will be taken by the court to meet those obligations. 15 M.R.S. §1073(3-A).

police officer's, to explain to a third-party that if they put up cash, and do not declare it as theirs, the money will NOT be returned to them at the end of the case. Do not presume that an intake officer or police officer has made the inquiry.

It is also incumbent upon you to explain to the third-party that the cash must remain with the court until the case is finally closed and that as a third-party bailor they are responsible for ensuring that the defendant appears at court as ordered and that the defendant obeys all terms and conditions of the bail bond. If the defendant fails to appear, or violates any condition of release, it is likely that the bail will be ordered forfeited and they will not be able to recover the cash or property. 15 M.R.S. §1072 and 15 M.R.S.§ 1072-A.

Do not accept third party bail from a person for whom the defendant has a no contact provision. It is not uncommon for a victim of a crime to come to the jail or police station, cash in hand, to bail out the defendant. The cash cannot be accepted from this individual as they would be required to have contact with the defendant to ensure the defendant's appearance and compliance with the bail conditions. That contact is a violation of the conditions of bail and could lead to the forfeiture of the bail funds. Take a minute and explain to that victim why you cannot accept their funds.

Checks and Foreign Currency

Do not accept foreign currency for bail. Conversion rates and costs associated with getting the funds converted into US dollars is time consuming and expensive. Banks often charge a service fee for such conversions. Additionally, since the exchange rate can vary from day to day, the amount accepted at the time of the bail may be less than the amount converted by the Court.

Likewise, **do not** accept in-state or out-of-state checks. If a check is returned for insufficient funds, it is nearly impossible for the courts to recover the funds and the associated fees. The only exception is when an attorney, licensed in Maine, brings in a check from his/her client trust account. This will sometimes happen if the person arrested is from out of state and they arrange to have their funds wired to the lawyer's trust account. The check

must have the lawyer's name and State of Maine office address printed on the check and be labeled Client Trust account.

Real Estate as Bail

Item # 28 Real Estate as bail- Whenever a defendant posts his/her own real estate as security, and whenever a different surety posts real estate for a defendant charged with Murder or a Class A, B or C crime, the person posting the real estate **must** file a bail lien in the Registry of Deeds in the county in which the property is located. 15 M.R.S. §§1074(2), 1071(2).

If bail is posted through a nonprofit bail assistance project, no lien is needed, regardless of the magnitude of the defendant's alleged offense. 15 M.R.S.§ 1071(2)(D).

Only property located in the state of Maine may be posted. Real estate located outside of Maine, no matter how valuable, cannot be accepted. 15 M.R.S.§ 1071(3).

Before real estate can be posted for bail, the bail commissioner must determine the net value of the real estate involved and then look to see if the net value of the real estate is equal to or greater than amount of the bail required. This is accomplished as follows:

First, determine the value of the property before any liens, mortgages etc. are applied. This can be determined from a copy of the real estate tax bill, a bill of sale or from the verbal representations of the person who owns the property. A formal real estate appraisal or written statement of value is not required. Use your common sense and good judgment in determining whether to accept a verbal representation.

Once you have the value of the property, subtract from that value all outstanding mortgage amounts and tax or other liens. This will give you a **net value amount**. These figures should be secured from the property owner. The dollar amounts do not need to be exact (I.E. you don't need the mortgage balance down to the penny) but they should be reasonably close. As an example, if a person owes $97,799 on their mortgage, a statement that they owe $97,000 is acceptable. A statement that they owe $50,000 is not.

Then look at the net value of the real estate figure and compare it to the amount of the bail set. If the amount of the bail is less that the net value of the property, you can accept the property as the bail. If the bail amount exceeds the net value of the property there is not enough to cover the bail and you must not accept it.

Here is an example of this process. For the purposes of this exercise, presume the following:

Bail set at $50,000 surety
Real Estate valued is $125,000
Mortgage balance of $45,750
Tax Lien of $1200

The net amount available for bail is calculated as follows:
$125,000- Value of Property
-$45,750- Mortgage
-$1200- Tax lien
$78,050- net amount that is available to be applied towards bail.

In this example, since the balance available on the property of $78,050 exceeds the bail amount of $50,000 you may accept this piece of property as surety for the bail.

Items # 29, 30 and 31- Bail Liens-Maine law provides specific procedures for securing a bail lien which are described in detail in Chapter 12.

Item #32- Concurrent Bail- Sometimes a court will order that one bail be concurrent with another. What does this mean? It means that once bail has been posted on one docket number it may also serve as bail for another charge or set of charges in another docket number(s).

For example, if the defendant has posted $1,000 cash bail in the York County UCD on a charge of theft and then is arrested on a new charge, the Court might decide to set bail at "$1,000 cash concurrent with existing cash bail." In other words, the defendant doesn't have to post more cash bail to get out.

When this happens, a bail commissioner should prepare and execute a new bail bond for the second charge. In **Item# 32** you should write in the **Court**

and Docket number of the previous case where the bail has already been posted. It is very important that you write in both items. Without this information, it is nearly impossible for the Clerks to track the bail through the system. Missing information also makes determination of dispersal of the bail at the end of the case very difficult.

Items # 33-38- Court Appearance Information - Items #s 33-38 are the official court notice to the Defendant of where, when and what time they must appear in Court. Each item must be filled out in full. There are a few rules you must follow to ensure that the Defendant is given correct information concerning their court appearance. Please pay careful attention to this section-providing incorrect or incomplete information could lead to a Defendant being arrested or detained.

First, in every case, please consult the detailed statewide arraignment date chart that is provided to every bail commissioner to confirm the date for arraignment in that court. Maine's courts are broken down into eight regions. Within each region are the various court locations. Each city, town, or range/township, is assigned a court. To find the correct date, first determine the court where the individual is to report. This is based on the arresting agency and the town where the offense is alleged to have occurred.

Next, locate the region, then the court location from the chart. From the region and court location, look up the arresting agency. Pay careful attention to this. Scan across the chart to find the date and time for appearance.

An EXAMPLE of the arraignment date chart from 2016 follows:

Suppose an individual was arrested by the Wells Police Department on March 12, 2016 for a charge of Operating Under the Influence, Class D. As a bail commissioner, you decided to impose a special bail condition of "No use or possession of alcohol". Wells is in York County, which is in Region 1.

In this case, you would go to the Region 1 page of the arraignment chart; then scan down the listing to find the Wells Police Department. Wells PD cases are initially heard at the York District Court. Since you have imposed a special bail condition, this individual must be arraigned within 8 weeks of arrest. 15 M.R.S. § 1023(4)(E).

Next, scan across the chart to find a date within eight weeks of the date of arrest. In this matter, the nearest arraignment date would be March 22. Since there may not be enough time for the prosecutor's office to screen the case and prepare the criminal complaint, you may use the next date of April 17th.

You would insert the name of the court, York District Court, in **Item # 33**, the Town of York in **Item # 34**, the County of York in **Item #35**. In **Item #36** you would insert the York District Court's Clerk's office telephone number. A complete listing of each courthouse and their contact numbers is contained in Appendix E. Insert the time the defendant must appear in **Item # 36.** The time of the arraignment, 8:15 am, which can also be found on the Arraignment dates chart, should be put in **Box # 37**.

Please do not rely solely on the information provided by the police agency or dispatch center or on the summons, of the arraignment dates. While arraignment dates are generally scheduled for the same day of the week for various departments, and remain the same across the year, there are occasions when, due to court scheduling, holidays or other matters, arraignments are not held on particular days. As such, it is imperative that you consult with the arraignment date chart to verify the proper date, time and location for each bail bond you complete.

Items # 39-50 all relate to the imposition of **special bail conditions** concerning alcohol, illegal drugs and dangerous weapons. Recall that whenever a bail commissioner has the authority to set bail, he or she has the authority to set conditions of bail in addition to the mandatory conditions that are preprinted on the bail form just above Item # 39.

The use of discretion, based on your experience and the facts of the case, is always appropriate. This is especially true in these instances. In the case of prohibitions against the use or possession of drugs or alcohol, the first question the commissioner should ask is "Were drugs or alcohol used during the commission of the crime"? If the answer to the question is no, is there any reason to justify the imposition of such a condition? Probably not.

If there was evidence of drug or alcohol use during the commission of the crime, the next question to ask is "Is it necessary to impose a condition prohibiting possession of or limiting the use of these substances?" The third and fourth questions a bail commissioner needs to ask him or herself are "Is a condition prohibiting the use or possession necessary to ensure one of the four purposes of bail? Will the prohibition achieve the goals of the Bail Code?"

Once you have answered these questions, if you feel a prohibition is an appropriate bail condition, check off only those boxes that are appropriate for the case. For instance, if the case involved the use of alcohol in a criminal mischief matter, and if there is no evidence that marijuana, drugs or dangerous weapons were used in the crime, you only need to check off the alcohol conditions. You will need to first determine if you want to make it an absolute prohibition or do you want to permit reasonable use.

DO NOT cross off the one you don't want imposed. Our current court computer system cannot accommodate such revisions. Use the specific boxes instead.

Keep in mind, that these prohibitions can impact a person's life, living arrangements or livelihood. Bail condition prohibiting one of these conditions can have an impact on more than an individual's social life.

For example- You are called to set bail in a criminal mischief case. The Defendant and her friends were caught destroying a political candidate's four-foot by four-foot wooden sign. There is evidence that the Defendant had "had a few beers" at the time of the incident. She told the investigating officer that she was angry and incensed at a position the candidate took during a debate.

While gathering the information needed to set and execute bail, you learn that the Defendant is a waitress in a local restaurant and has been employed there for the last 6 years. She has no prior criminal history. If you impose a

condition of no possession of alcohol you have effectively prohibited her from working, and supporting herself and her family, as the service of alcohol is a function of her employment. In this instance, while legally you have the authority to impose the full prohibition against possession or consumption of alcohol, it may be prudent to choose not to impose a prohibition condition at all or, if you feel a prohibition is necessary, enter a condition in **Item # 69** that reads "Not to possess alcohol except in the course of employment".

On the other hand, you may be called in to set bail in a third offense OUI case. The officer reports the individual's BAC (blood alcohol concentration) was a .15%, nearly twice the legal limit. In that case, it may be very appropriate to impose a no use or possession of alcohol bail condition. It may also be prudent to impose a condition, written in **Item # 69** of "Not to drive a motor vehicle after consumption of any alcohol". Use your common sense and good judgment.

Always remember, whenever you set a bail condition, you are restricting the liberty, in some manner or another, of an individual. The Bail Code permits this so long as the condition is legitimately related to the matter at hand. Bail conditions are not to be used to punish someone, to make someone's life miserable just for the sake of creating misery or to satisfy an angry police officer or community member. If the bail condition is legitimately related to the four purposes of the Bail Code and the case, then you should feel free to set appropriate conditions. If the condition is for any other purpose, think twice before imposing unnecessary restrictions.

Items #43-45 were recently added to the Bail Bond as a result of the Maine Citizen's Referendum legalizing the recreational use of **marijuana.** While personal recreational use of marijuana is now legal in Maine, bail commissioners, like judges, are permitted to impose these conditions prohibiting use or possession of marijuana or marijuana products (edibles, tinctures, baked goods, drinks etc.) if the prohibition is related to the four purposes of the bail code and are related to the case. Just like alcohol, although both substance types are legal to possess and consume under Maine law, it is also legal to restrict use or possession of the products while out on bail.

Items # 48-50 permits a bail commissioner to impose a condition of no possession of any **dangerous weapons**, including, but not limited to, firearms. This condition is most often imposed in those situations involving

domestic violence, neighborhood disputes where someone has threatened to kill another, stalking and other crimes where one person has threatened, or implied, they will cause bodily harm to another individual.

If you choose to impose this condition, you are advised to write in **Item # 69** a description of the weapon (hunting knife, throwing stars, cross bow, etc.) and how the individual is to comply with the condition. For example, you may wish to write "All firearms to be turned over to the arresting police department within 4 hours of release" or "Defendant to turn cross bow over to the arresting police agency within 3 hours of release". If you do order a special condition like this, the best practice is you notify the police agency of the condition so that they can be prepared to take custody of the weapon.

Conditions of Searches

Items # 51-53 deal with the **types of searches** that can be conducted for alcohol, drugs and dangerous weapons. There are two different types of searches:

1. Random Searches, and

2. Searches only upon articulable suspicion.

Random searches give law enforcement very broad powers to pull the defendant's car over and search that vehicle or to enter a defendant's home, cottage or camper at any time, with no stated reason, other than to search to see if they are following the bail conditions. In contrast, an articulable suspicion search requires that the law enforcement officer be able to articulate (state) a valid reason for believing that evidence of the prohibited contraband or prohibited behavior is in the person's home or car before they can search.

Maine law **prohibits** a bail commissioner from **setting** a condition of bail of a **random** search or seizure of alcohol or illegal drugs. 15 M.R.S. § 1023(4)(G). If the court enters such an order, the bail commissioner may **execute** a bail bond containing the Court ordered random search for alcohol or illegal drugs condition.

Bail commissioners **may** set as a condition an **articulable suspicion** search for alcohol or illegal drugs but **only** if, at the time of setting the bail, the

commissioner is presented specific facts demonstrating the need for such conditions. 15 M.R.S. § 1026(3)(A)(9). Just because a law enforcement officer requests such a condition, is not a reason to impose the condition every time. Commissioners should have solid and specific reasons from the case facts presented to them to justify imposition of this condition.

Bail commissioners **are** permitted to set a random search for dangerous weapons or firearms condition. 15 M.R.S. §§ 1026 ((3)(A)(8) and (9-A). If the case facts indicate that a weapon was used or threatened to be used, or if you have information that continued possession of the weapon could be dangerous to the victim's or public's safety, you should impose this condition.

Electronic Monitoring

Item # 54- in some, but not all, counties in the State, an **electronic monitoring** program is available for a limited amount of cases. These programs typically require a defendant to wear an electronic monitoring cuff or bracelet (EMD) 24 hours a day, 7 days a week. The EMD tracks the defendant's whereabouts and movements and reports any violations of the Court order to a centralized location that then reports the violations to law enforcement and the monitoring police agency or pre-trial services program.

Because these programs have limited availability, and because each defendant and his/her residence must be screened for compatibility, only the Court should order this as a condition of bail. Bail commissioners should NOT make electronic monitoring a condition of a bail they **set** but they must include a condition for electronic monitoring on any bond they **execute** if the Court orders electronic monitoring.

No Contact Orders

Items # 55-65-These items are the location on the bail bond where specific orders for **no contact** should be entered. As discussed in chapter 7, in all domestic violence cases, a condition of no contact, direct or indirect, with the alleged victim, should be entered. You should also consider entering a similar order if a crime of violence against a non-family member, a burglary, a sexual assault or stalking has been charged or if the facts of the case suggest that the victim(s) of or witnesses to the crime fall under the purpose of the bail code that includes ensuring the integrity of the judicial process.

Item # 55 is where you list the **victim's names and dates of birth** (d.o.b.). This information should be available through the arresting officer or their police report. If the incident involved multiple victims, you should enter each of their names and dates of birth. If children are alleged to be victims, do not assume they have the same last name as the parents. Do not list them as "and children". List them by their full name and d.o.b. Likewise, do not write "his spouse", "her husband" or "his mother"- write their full names and d.o.b.s.. Remember, this information is transmitted across the switch and is available to law enforcement. Complete and accurate information must be available so that the officer can quickly assess the situation for a possible violation of bail.

Items # 56-64 are used in those cases where **very limited and specific contact** for specific purposes, such as payment of child support, to discuss a child's sudden illness or to bring a child to the other parent for a visit, is permitted. If contact is allowed, be specific on the type, time and length of contact. For example, you may write "text messages on Tuesday from 4-7 pm is permitted to arrange weekend visitation details." In this example, Item # 58 should be checked off and the details written in Item # 60.

Additional details can be written in on **Item # 60**. DO NOT write additional restrictions or conditions along the sides of the margin or above or below Items 56-64. The current computer transmission system does not permit for the transmitting of information scratched out or added in in this manner. If you need more space, consider using either Item # 69 on the bail bond or complete the Conditions of Release form.

It is not uncommon for a defendant to ask the bail commissioner, to waive a no contact provision or restricted contact provision. The best practice is to impose the conditions and tell the defendant that if he/she is not happy with the bail conditions set or if he/she wants a restriction lifted she has the option of appearing before the court and requesting a modification of the bail from the judge.

Items # 61-64 specify which **locations a defendant is barred** from going to or entering. It is important to include these and distinguish them from the no contact provisions as without them, a defendant may feel that he or she is permitted to go to the victim's residence, school or place of employment without consequences. This is especially true if the victim's place of employment is in a public location such as the local elementary school, a store, bank, public park or restaurant.

It is best practice to include these items, as the facts dictate, in any domestic violence, non-domestic violence assault, sexual assault or stalking case. Remember, one of the purposes of the Bail Code is to protect the integrity of the court process. If a defendant is not barred from going to the victims' school, home or place of employment, or if he/she thinks he/she can repeatedly drive up and down the victim's street, his presence or appearance there can be very frightening and intimidating to the victim making them reluctant to testify.

Item # 65 -As previously discussed in chapter 7, there may be occasions where is it appropriate to allow a defendant in a domestic violence case to return to the formerly shared residence on **ONE occasion** to retrieve personal belongings, necessary medications, work tools or equipment or a vehicle for the defendant to use to get to work. This should only occur in the presence of a law enforcement officer who will be there to keep the peace and ensure the defendant retrieves only what is specified in the bail order. Whether this should be allowed depends entirely upon the facts of the case and the true necessity for the defendant, rather than another individual, to retrieve the items. This is not the place for a complete division of property or a cleaning out of the house to occur. Rather, the purpose is to get items that are truly and immediately needed.

Before this option is entered, bail commissioners should consider the time of day, the availability of law enforcement to accompany the defendant back to the residence, the true need for the items and whether there might be another way to arrange for the retrieval of the items without the defendant returning to the residence. For example, a defendant is arrested at 6 am for the first time and has agreed to voluntarily stay away from the home. He is diabetic. His co-worker arrives at the jail at 8 am to bail him out and offers to go to the residence to pick up his medications and work boots. If a law enforcement officer is available to meet the co-worker at the home this might be a reasonable solution.

On the other hand, if the defendant is still very angry, talks about wanting to remove his big screen tv, his rifle collection and numerous other items and insists he should be able to go unaccompanied to the residence at 3 in the morning, you would be advised **not** to allow this condition and to instruct the defendant he can have his lawyer handle this request at court.

Items # 66-67-These items involve bail restrictions on an individual's right to drive an automobile. They are typically imposed when a person is arrested for a motor vehicle crime like OUI or operating after suspension. Use your discretion in imposing these restrictions. If a person is currently under suspension, or has never had a driver's license, it may be wise to check off **Item # 67.** If on the other hand, the individual has three prior OUI violations, has just been arrested for Vehicular Manslaughter, and tells you she is going to get in his car and drive off a cliff, it would be wise to consider imposing **Item # 66** and informing the defendant that she can't drive under any circumstances.

Supervised Bail Contracts

Item # 68- As previously discussed, in some limited circumstances in some courts, a pre-trial supervision program is available to eligible defendants. These programs provide an alternative to cash or surety bail and involve more intense supervision of the defendant. They are generally run by non-profit pre-trial organizations or a county jail. Because a person must be screened for eligibility, and accepted into the program, the Chief Judge has determined that **only** the court can impose this as a condition of bail.

Bail commissioners may become involved in these matters if they are called to execute a bail bond and the court has imposed this condition. If this is the case, there are a few steps you must take before the individual can be bailed.

1. Verify that the court has ordered release on a pre-trial contract. This information will be found on the Conditions of Release form (CR-002) signed by the court.
2. Review the pre-trial release contract and ensure that it has been signed by the defendant, a representative of the pre-trial program and a judge or justice. If any of the signatures are missing, you may not bail the individual.
3. Review the contents of the contract to be sure that it doesn't contain restrictions on or special conditions of release. A common example would be "Defendant to be released on a Maine Pre-Trial Contract with a direct bed to bed transfer to a drug treatment inpatient program."
4. Complete the bail bond, noting any special conditions of release as described above and be sure it is signed by the defendant.
5. Notify the pre-trial agency that the bail bond has been signed.

Never execute a bail bond with a defendant, and release him or her, if the pre-trial release contract has not been signed by all the necessary parties. A court MUST approve of and sign the contract for it to be valid. Do not rely on the word of jail staff, defense counsel or the defendant that the other parties will "sign it in the morning".

Item # 69- This is the line where you would write in **other special conditions** or terms that are not specifically pre-printed on or provided for on the bail form. This is also the space where you would write in qualifications or restrictions written directly on the bond by a court or court clerk. An example of this would be, in item # 40, the judge or court clerk crossed off the phrase possess. The intent is that the person can't excessively consume alcohol. In that instance, you should write in the phrase "Not to excessively possess alcohol" and check off the box in front of **Item # 69**.

Finally, keep in mind that for any item written in the space provided in **Item #69,** our current electronic system limits the number of characters (letters, numbers or spaces) to 140. Anything longer than that, will not be transmitted across the METRO switch.

Item # 70- On many occasions the Court will impose additional conditions and note them in a Conditions of Release Form (CR-002). If you notice that the CR-002 form in a case has multiple additional conditions that are not on the bail bond, you should check off this box and be sure a copy of the Conditions of Release form is also provided to the Defendant. You should also go over each of the additional items on the Conditions of Release form with the defendant and the surety before the defendant is released. A copy of CR-002 should be transmitted to the court and to the Regional Communications Center for entry into the METRO system.

Item # 71 -As previously discussed, and as will be discussed further in Chapter 10, if a third-party posts bail, whether it is cash, or real estate, you MUST check this box off. You are also required to fill out the information on the back of the bail bond in **Items # 108-112**.

Item # 72 -The defendant must sign the bail bond to be released. M.R.U.Crim.P. 46(b)(2)(D). Before the defendant signs the bail bond, you must explain the contents and requirements imposed in the bond, ask the defendant if he/she has any questions concerning his or her obligations and

then explain the penalties and consequences, including arrest, if the defendant fails to appear as required or violates any of the conditions of release. 15 M.R.S. § 1026(5)(A-B).

Items # 73-77 These items, which are self-explanatory, must be filled out by the bail commissioner. Please be sure to note the date and time, the location (city or town) where the bond was signed, and legibly sign and then print your full name in the appropriate boxes. The a.m. or p.m. indicator must be circled. When you sign and print your name it is very important that it be done so legibly.

The Back of the Bail Bond

Once the front of the bail bond is properly filled out, the bail commissioner must proceed to the back of the bond if either cash or real estate is posted as bail.

If a defendant is posting his own real estate for bail, **Items #78-86** must be filled out. **Item # 78** is where you would print the defendant's legal name. Do no use nicknames, initials or other abbreviations of the name. **Item # 79** is the street address of the property being posted. Be sure to include both the street name, as well as the house or lot number, of the property being posted. Like the defendant's address, simply stating State Route 27 or PO Box 421 is not sufficient-it must be specific enough that a person looking up the property at the Registry of Deeds or Town office, could identify it.

Item # 80 is the town where the property is located while **Item # 81** is the county where it is located. If the property is in an unorganized township, list the township and range numbers in **Item # 80** and the county name in **Item # 81**.

Item # 82 is the total value of the house before you deduct any encumbrances (liens or mortgages) while **Item # 83** is the net value of the house after deducting mortgages and liens. Be sure to read the language that is in all caps immediately after **Item # 83** to the defendant before you have him or her sign, date and add his or her address in **Items # 84-86**.

Items # 87-95, and 96- 104, are like Items # 68-76 EXCEPT that these spaces are used when someone **other** than the defendant agrees to post real estate as

bail. You will note that there are two separate surety boxes-this is provided on the bail bond for those situations where a high security bail, say $200,000 is required to be posted. In that situation, a bail commissioner may accept as surety two different pieces of property so long as the net value of the two properties, when combined, is equal to or greater than $200,000.

Like the Defendant, you must explain to each surety their responsibilities under the bond to:

1. Ensure the appearance of the defendant at every court hearing.
2. Ensure that the defendant abides by all conditions of the bail bond.
3. File all necessary liens in the County Registry of Deeds.
4. Once the bail is ordered released after conclusion of the case, file the Discharge of Bail Lien (CR-005) in the Registry of Deeds. Failure to file the discharge, and pay the filing fees, means that the lien remains in place and could create significant problems for the surety's credit record or if the property is placed up for sale, transferred in probate or subject to foreclosure. 15 M.R.S. §§ 1072 and 1072-A.

You must also explain to the surety each of the bail conditions and inform them of the potential consequences, including the forced sale of their real estate, if the defendant violates any conditions of the bond. The surety needs to understand the seriousness of their obligation and the possible consequences if the defendant violates his or her bail.

A surety may ask if they can revoke their surety if they no longer wish to post their property. The answer is yes. They will need to file a request with the Court (CR-003) where the charge is filed and provide notice to the defendant and the defendant's lawyer. 15 M.R.S. § 1073. If the Court agrees, the Court will sign an order of Termination of Surety (CR-003) which can then be taken by the surety and filed in the appropriate Registry of Deeds.

In both instances, whether it is the defendant or a third party posting bail, you must take the oath of the surety and then have them sign the surety agreement in the designated boxes as described above. Then the bail commissioner must fill in the names of the sureties (print their full names, no nick names or abbreviations) in **Item # 113** and then sign your name in **Item # 114**. Please print your name below the line in **Item # 114**.

You must also provide to both parties a copy of the written release order CR-001(Bail Bond) and CR-002, (Conditions of Release) before the Defendant is released.

CHAPTER TEN
FILLING OUT THE CONDITIONS OF RELEASE FORM

Instructions and Tips for Filling out the Condition of Release Form

If a person is taken into custody and doesn't make bail within 48 hours, excluding Saturdays, Sundays and legal holidays, the Maine Rules of Unified Criminal Procedure generally[1] require that they be taken before a judge or justice and that bail be set. This form is often used by the Court to set bail and conditions, and to order the person returned to jail until bail can be met.

The Conditions of Release Form (CR-003) is very similar in appearance to the bail bond but has more detailed conditions that can be used. Many of the items on the bail bond are repeated on the conditions of release form. In those instances, you should fill out the conditions of release form in the same manner as the bail bond.

There are additional conditions on the conditions of release form that do not appear on the bail bond and, depending upon the specific facts of the case, may be appropriate to use. Like the bail bond, if a court has imposed conditions on the conditions of release form, you must transfer those conditions to the forms you use. In no circumstance should you alter, amend or delete a condition imposed by the court.

If a judge has filled out a conditions of release form, you should be sure to attach a copy to the bail bond you prepare and provide to the defendant. You must also check off Item #70 on the bail bond you prepare. Best practice is to also be sure that a copy of both the bail bond and the condition of release form gets properly transmitted to the regional communications center (dispatch) so that all the conditions get properly entered into the METRO system.

If the court has not filled out a condition of release form, but you feel you should use the form, follow the instructions below. Again, be sure you check off item # 70 on the bail bond and provide a copy of the form to the defendant and the dispatch center.

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[1] This time rule does not apply to persons being held on a probation revocation, on an order where bail has been revoked or on any order after a motion to review bail.

1 ☐ **COMMITMENT ORDER with CONDITIONS OF RELEASE** 2 ☐ **CONDITIONS OF RELEASE**

3 ☐ UNIFIED CRIMINAL 4 ☐ DISTRICT 5 ☐ SUPERIOR COURT located at _____ 6 Docket No. _____

7 **STATE OF MAINE** v. _____, Defendant

8 **OFFENSE(S)** _____

_____ 9 ATN/CTN _____

Defendant shall be held at the 10 ☐ _____ County Jail 11 ☐ Department of Corrections

12 ☐ without bail 13 ☐ as indicated on attached Bail Bond form 14 ☐ until bail is posted as follows:

15 ☐ **PERSONAL RECOGNIZANCE**. 16 ☐ **UNSECURED**. Defendant is not required to post any security to be released, but if defendant fails to appear as the Bail Bond requires defendant shall owe the State of Maine $_____

17 ☐ **SECURED**. Defendant shall be released from custody only after the following security is posted.

18 ☐ Cash in the amount of $_____ or 19 ☐ No Third Party Bail Allowed

20 ☐ Real estate (or_____) with a net value (total value less encumbrances) of 21 $_____.

22 ☐ Bail Lien. 23 ☐ Within 1 working day after today ☐ Before defendant may be released, a lien on the real estate described must be recorded in the Registry of Deeds in the county where the real estate is located, and proof of such recording must be filed with the court listed above. (Note: The Registry of Deeds and the clerk's office are different offices and may be in different counties.)

25 ☐ **SUPERVISED RELEASE: Check One Box Only** 26 ☐ AND 27 ☐ OR in the alternative, defendant is released to the custody of a supervised bail contract pursuant to terms and conditions provided in the contract.

28 ☐ **CONCURRENT.** This bail is concurrent to the bail previously set/posted in (*list court and docket number*): 29 _____

Additional conditions to which the defendant agrees to obey, if checked. The def. will not: 30 ☐ use 31 ☐ possess **OR** 32 ☐ excessively use or possess

33 ☐ alcohol; and 34 ☐ use 35 ☐ possess **OR** 36 ☐ excessively use or possess 37 ☐ marijuana or marijuana products; and

38 ☐ use or possess 39 ☐ any illegal drugs or their derivatives; and 40 ☐ use or possess 41 ☐ any dangerous weapons or 42 ☐ firearms.

43 ☐ In order to determine if s/he has violated any prohibitions of this bond regarding alcoholic beverages, illegal drugs or their derivatives, marijuana or marijuana products or dangerous weapons, she/he will submit to searches of her/his person, vehicle and residence and, if applicable, to chemical tests

44 ☐ at any time without articulable suspicion or probable cause. 45 ☐ upon articulable suspicion.

46 ☐ have no direct or indirect contact with *(name and dob)*_____

_____ except as is necessary

47 ☐ for counseling; 48 ☐ to pay child support; 49 ☐ for child contact; 50 ☐ by telephone; 51 ☐ _____

52 ☐ and not enter any 53 ☐ residence 54 ☐ place of employment 55 ☐ place of education of any such person(s)

56 ☐ except for a single time, while accompanied by a police officer, for the purpose of retrieving defendant's personal effects.

57 ☐ maintain or actively seek employment; 58 ☐ maintain or commence an education program;

59 ☐ participate in regular substance abuse counseling and provide proof of such counseling upon request.

60 ☐ undergo 61 ☐ medical 62 ☐ mental health 63 ☐ evaluation 64 ☐ counseling/treatment & provide proof of such counseling/treatment upon request.

65 ☐ complete certified Batterer's Intervention Program 66 ☐ undergo other counseling/treatment _____

_____ and provide proof of such counseling/treatment upon request.

67 ☐ abide by the following restrictions on personal associations, place of abode, or travel: _____

_____

68 ☐ report 69 ☐ daily 70 ☐ _____, ☐ 71 in person 72 ☐ by phone, to 73 ☐ probation officer 74 ☐ _____

75 ☐ report 76 ☐ weekly 77 ☐ _____, ☐ 78 in person 79 ☐ by phone, to 80 ☐ probation officer 81 ☐ _____

82 ☐ comply with the following curfew: _____

83 ☐ participate in 84 ☐ outpatient 85 ☐ voluntary inpatient treatment; at or with _____

86 ☐ take medications as prescribed. 87 ☐ participate in an electronic monitoring program.

88 ☐ not operate any motor vehicle under any circumstances 89 ☐ unless lawfully licensed to do so.

90 ☐ _____

If the defendant makes bail, the defendant is required to appear:

91 At the Unified Criminal Court on _____ and on any other date and time and at the court the justice, judge or clerk tells me to appear.

(This Conditions of Release form to be attached to defendant's Bail Bond.)

92 Date: _____ 93 _____ _____

Justice / Judge / Clerk / Bail Commissioner 94 Printed Name of Bail Commissioner

CR-002, Rev. 07/17 **BAIL COMMISSIONER**

Item #1- If a person has already been brought before the Court, and bail has already been set, this box will be checked off. A bail commissioner setting and/or executing bail does not need to check this item off.

Item #2- This box should be checked off whenever you use this form.

Items # 3-9- These boxes should be filled out in the same manner as item #s 2-7 on the Bail Bond. Please refer to Chapter 9 for detailed instructions.

Items #10- 14-If the Court has already filled out a conditions of release form, these boxes are filled out by the Court when filing the Commitment Order with Conditions of Release. They provide information for the jails to follow until bail is met as well as inform the bail commissioner of the type, amount and any special conditions of bail and to the filing of the bail liens. Instructions concerning the filing of bail liens follows in Chapter 11.

Items # 15-21- If the Court has already filled out this form, this information should be transferred directly to the appropriate spaces on the bail bond. Pay careful attention to any court order prohibiting third party bail in item #19. If the court prohibits such bail, be sure to conduct the inquiry as described earlier in Chapter 9 before accepting the cash.

If you are filling out the conditions of release form, be sure that the information you put in these items matches the information concerning the bail type and amount on the bail bond you prepare.

Items # 22 and 23-These items refer to the necessity of informing a defendant, and a surety, of the requirements under Maine law, to file a bail lien and the time frame for the filing of the document in the Registry of Deeds as well as with the Clerk's office. Please refer to Chapter 11 as to the requirements of when a lien must be filed and be sure that you carefully go over this section with the Defendant and the Surety.

Items # 25-27- This is where the Court will enter any orders related to supervised release programs previously described in this chapter. The Chief

Judge has determined that a bail commissioner may not impose these conditions but must follow the conditions if imposed by the Court.

Items # 28-29- Are filled out whenever the Court orders a bail to be concurrent with another case. Please pay careful attention to the docket #'s listed here and be sure they are entered on the Bail Bond. Include the full docket number, including the court location identifiers, in this slot. Simply listing the last four numbers is insufficient and requires an enormous effort on behalf of the clerks to investigate and track down the complete information.

Items # 30-56- Are similar to the prohibitions listed in Items # 39-65 on the bail bond. Pay careful attention when you transfer this information from the Conditions of Release form to the bail bond. As with any condition of bail, pay attention to the necessity of the conditions and the three purposes of bail.

Items # 57-58-Are conditions dealing with requirements of seeking, maintaining or commencing employment and an educational program. While these conditions are permitted under the Bail Code, before imposing them carefully consider the practical realities facing a defendant if these conditions are imposed. Given their individual circumstances, is such a condition reasonable? Affordable? Attainable?

Items # 59-64- These items deal with requiring an individual to undergo an evaluation and/or participate in substance use, medical, and mental health treatment. Typically, these conditions should **only** be imposed by a judge. This is because it must be confirmed that the program(s) is available, has an immediate opening, that the program has agreed to accept the defendant and is affordable. It is not appropriate to impose these conditions if the services are not readily available or accessible or the defendant lacks the finances to travel to or pay for treatment. Remember too, that the programs must evaluate and then decide to accept the person. If a person is unable to get into the program, due to program qualifications or requirements, you may be subjecting them to arrest for failure to abide by a bail condition-a failure that is beyond their control. It is best **not** to impose these conditions but instead to leave it up to a court to make that decision.

Item# 65- Batterers Intervention Programs are intensive, 48- week programs that require weekly participation and weekly payments of fees. They address

violent behaviors in interpersonal relationships. Keep in mind that to participate in the program, an individual must admit to their criminal battering behaviors and as such there are substantial Constitutional considerations that must be kept in mind. Absent extraordinary circumstances, these conditions should never be imposed pre-conviction and then only by a judge.

Item # 66- Like items # 59-65, while a bail commissioner may legally have the authority to order a person to undergo other counseling or treatment and provide proof of participation to the court, absent extraordinary circumstances, these conditions should **never** be imposed by a bail commissioner pre-conviction and if imposed, then only by a judge. The same factors, and same cautionary restrictions you must consider for those items should be applied here.

Item #67-This item is where you place conditions of no contact with witnesses, prohibitions on entering certain businesses or locations or restrict travel as required by the facts of the case. For instance, a person is charged with destroying a large garden in a neighboring town. It may be appropriate to impose a condition not to return to the garden.

Items # 68-81- These items are provided should a bail commissioner choose to impose a "check in" with a probation officer, law enforcement agency or another individual as a bail condition. Please do not impose the probation officer condition check in unless the individual is on probation and you have first cleared the check in condition with the probation officer.

Item # 82- A bail commissioner is permitted to impose a curfew if it is reasonably related to one of the four purposes of bail and is related to the facts surrounding the pending charges. A curfew on an 18-year-old high school student who went on a major crime spree after midnight may very well be reasonable, while a 6pm curfew on a long-distance truck driver or waitress who works nights, may not. Use your common sense and good judgment.

Items # 83-85- Only use these items when a **judge** has imposed a condition of counseling or treatment. Many times, during the process of executing bail, a judge may set these conditions for a defendant who is **currently** in treatment or counseling for drug or alcohol use, or who has a diagnosed mental health

condition. Again, absent extraordinary circumstances, these conditions should never be imposed pre-conviction and then only by a judge. If you feel that the circumstances are so extraordinary that they require the imposition of the condition, be very cautious in imposing an inpatient treatment unless you are confident that the individual has the financial capacity to pay for the in-patient treatment and that there is an immediate opening-at a facility they wish to attend.

Item #86-This condition may be imposed if an individual has an on-going relationship with a medical provider who has prescribed certain medications for that individual's conditions. There is no need to impose this condition in every case where a person is on medication. Rather, consider this condition if the medication is being used to address a substance use disorder or a mental health diagnosis.

Item #87- As previously described, in a very small number of counties there are programs that provide for electronic monitoring of offenders. Because of the limited availability of these devices, and because of the limitations on the capabilities of these devices to operate properly in certain areas of the state, a bail commissioner should never impose this condition unless it has been authorized by the court and approved by the electronic monitoring program in their area.

Items #88-89- These items should only be used in cases where either a motor vehicle offense was charged or where the operation of the motor vehicle was part of the crime. Common examples include operating without a license or reckless conduct with a dangerous weapon where it is alleged the weapon was a motor vehicle. It is not reasonable to prohibit someone from operating a motor vehicle if the individual is duly licensed and the crime they are charged with had nothing to do with driving.

Item #90- This item, like item # 69 on the bail bond, is used to write any unique or specialized bail conditions that are not otherwise set out earlier in the condition of release form.

Item #91-The date and time the defendant's next required court location must be inserted here. Be sure to read this portion of the condition of release to the defendant and stress the importance of appearing for all court dates. If

a third party has posted bail, it is important then they too are made aware of the date and their responsibility to ensure they defendant appears at court and follows all bail conditions.

Items#92-94- Date, sign and print your name on each condition of release form you fill out. Once that is done be sure the defendant and any surety are provided copies of this form.

CHAPTER ELEVEN
REAL ESTATE AS SECURITY AND THE BAIL LIEN PROCESS

Introduction

As discussed in Chapter 9, secured bail involves delivering something of value to the bail commissioner or to the court as insurance to guarantee that the defendant will appear in court when he or she is required to do so and that the defendant will abide by the conditions of his or her release.

An interest in real estate is a type of property that may be used for security. The property may belong to the defendant or it may belong to a third party, who is called a surety. Out-of-state property may not be used for bail. 15 M.R.S. § 1071(3).

When a bail commissioner executes secured bail involving an interest in real estate, several additional steps must be completed.

Determining the Value of the Real Estate

You should review the information on Chapter 9, Item #28. When accepting real estate as bail, ask the defendant or the surety to confirm that they own the property and to provide the value of the property. If they are willing to swear to the truth of their statement of ownership and of value on the back of the bail bond, you must assume that the statement is true. If it is not true, the defendant or the surety can be prosecuted for false swearing or unsworn falsification under the Criminal Code, which carries a maximum penalty of 364 days in jail and a $2,000 fine. 17-A M.R.S. §§ 452, 454.

A bail commissioner has the power of a notary public to administer oaths or affirmations in carrying out his or her duties. This includes the taking of an oath as to the value of real estate posted as bail. 15 M.R.S. § 1023(2). As previously discussed, one way to verify the value of the property is to ask them to produce a copy of their tax bill. They are not required to do so, and if they are unable or unwilling to do so, you cannot delay bail for this failure. A verbal representation is sufficient.

After verifying ownership and value of the property, you have to determine whether there is enough value in the property to meet bail.

You should ask whether there are any liens on the property, including other bail liens, tax liens, sewer liens, home equity loans or mortgages. To calculate the net value, start with the stated value of the property and subtract the value of any mortgages or liens. This will leave you with the net equity on the property which you can then compare to the amount of surety bail required.

If more than one person owns the real estate being offered, only one of the owners needs to agree to post the property as bail. As long as the value of the portion of the property that the surety owns is sufficient to satisfy the bail amount, it is unnecessary to have all owners of the property sign as sureties. For example, presume the Court has set bail at $25,000 surety. The Defendant's father comes to the jail and is prepared to post his home, which is jointly owned with his brother, as bail. The house is worth $200,000. The Father's share of the property is $100,000. Since the bail amount is less than the Father's share, the father can post his property. His brother's signature is not required.

If a defendant is bailed on multiple charges, then more than one lien may have to be recorded to provide the total amount of security required.
If the bail amount can be met by posting the property of a single person in a single municipality, only one lien is required. If the total bail amount can be met by posting the property of a single person in two different municipalities, two liens are required: one in each county where the property is located. If two different persons separately own two different properties needed to meet the bail amount then both sureties must sign the bail bond and both must post a lien for their respective property in the appropriate Registry of Deeds.

The Bail Lien

A bail lien is a document that, when recorded at the appropriate Registry of Deeds, serves to notify prospective purchasers or mortgage holders of the land that the State claims an interest in it. Thus, a bail lien serves the same purpose as a recorded tax lien, sewer lien, mortgage or other lien. The bail lien form used by the courts is CR-004 (Rev. 7/15). Blank lien forms can be obtained from the Clerk of Court's Office and a copy is contained in Appendix F. A bail commissioner is advised to have a supply of these forms available to give to a surety.

It is the responsibility of the defendant or the surety—or someone authorized on their behalf—to fill out the lien form, to pay all recording fees, and to record the lien at the Registry of Deeds. 15 M.R.S. § 1071(2)(C). Bail commissioners should **not** fill out bail lien forms nor should they file the lien at the Registry. It is the bail commissioner's responsibility, however, to advise whoever is posting the real estate to file the bail lien and to file proof of that filing promptly with the clerk of court. It is also the bail commissioner's responsibility to inform the surety that if they fail to file the lien in a timely manner the defendant may be rearrested "without the issuance of further process and shall be held as though the surety had not offered real estate as surety." 15 M.R.S. §1071(2)(A)(1).

The type of offense determines whether a bail lien is required, and the timing of the bail determines when the bail lien must be filed. Both are discussed below.

Determining Whether a Bail Lien is Required

As noted above, the type of offense determines whether a bail lien is required. Bail liens are **required** for murder and Class A, B, and C cases. For Class D and E offenses, a bail lien is required **only** if the judge orders that one be filed or property being posted belongs to the defendant. A bail lien is not required if bail is posted by a nonprofit bail assistance project, regardless of the severity of the charged offense. 15 M.R.S. § 1071(2)(D).

A bail commissioner has discretion to require a lien even if the statute does not require one because **surety bail without a lien is not very secure**. If a surety posts real estate but is not required to record a lien, the State will likely be unable to enforce the lien. Subsequently filed liens, mortgages, and judgment liens that are recorded will have priority over the State's claim. If the surety sells the property, and no bail lien was filed, there is nothing at the Registry of Deeds to protect the State's interest in the real estate.

If a judge orders surety bail but fails to indicate whether a lien is required, you must require a lien if the Bail Code requires one. Suppose these circumstances:

The jail calls you to accept bail that a judge set at arraignment. The conditions of release form that the judge signed requires cash bail of $1,000 or real estate of $5,000. The defendant's parents want to post their home, worth well over $5,000. The portion of the conditions of release form that is supposed to indicate whether a bail lien is required, and by when it has to be recorded, is blank. The charge is burglary, Class C.

The Bail Code requires a bail lien in this case (Class C charge, bail after first court appearance), and the defendant should not be bailed until the lien is recorded.

Determining When the Bail Lien Must Be Filed

The timing of the bail, relative to the defendant's first court appearance, determines when the bail lien must be filed.

If bail is set **prior** to the defendant's first court appearance on the charge, the bail lien must be filed at the Registry of Deeds and an attested copy must be delivered to the court clerk, **no later than one business day after the defendant is released on bail**. A business day is defined as a day when the courts are open. If this does not occur, the defendant may be rearrested "without the issuance of further process and shall be held as though the surety had not offered real estate as surety." 15 M.R.S. § 1071(2)(A)(1).

If a person is bailed **after** appearing in court for the first time, the bail lien must be filed at the Registry of Deeds and an attested copy must be delivered to the court clerk, **before the defendant may be released**. 15 M.R.S. § 1071(2)(B). This applies to bail set at the defendant's first appearance as well as to bail set after the defendant's first appearance, such as bail set on a warrant issued for the defendant's failure to appear at trial.

Where to File the Bail Lien

Whenever a defendant or a surety posts real estate as security, the person posting the real estate must file a bail lien at the Registry of Deeds in the county in which the property is located—and not in the county where the bail is being posted, unless the real estate is also located there. 15 M.R.S.

§§ 1074(2), 1071(2). An attested copy of the bail lien needs to be filed in the Clerk's office in the county where the charges are pending.

Keep in mind that there may be times where the clerk's office where a bail lien is **turned in** may be in a different county from where the bail lien is **recorded** at the Registry of Deeds.

> For example, an individual is charged with Burglary in Augusta. The bail bond and related paperwork would be filed at the Capital Judicial Center in Augusta. The person agreeing to put up the property owns property in Lewiston. The bail lien must be filed at the Androscoggin County Registry of Deeds in Auburn. An attested copy of the bail lien will need to be filed in the Court in Augusta, not in Auburn.

Responsibility of Surety

Each surety for a defendant admitted to pre-conviction bail is responsible for the appearance of the defendant at all times as well as the defendant's compliance with the conditions of release, including that the defendant refrain from new criminal conduct, until a verdict or finding or plea of guilty or nolo contendere. 15 M.R.S. § 1072(1). The surety could lose his or her security if the defendant fails to appear or otherwise violates bail. These requirements continue throughout the criminal process unless the surety has formerly terminated the agreement to act as surety and has been relieved of the responsibility by the court. 15 M.R.S. § 1073.

A bail commissioner should carefully review the bail bond and conditions of release **with the surety** before the back of the bond is signed. Sureties **must** be made aware of their obligations and responsibilities as a surety and provided a copy of the bail bond and, if one is used, the conditions of release form, in each case. This rule applies to both cash bail as well as real estate posted as surety.

Termination of Agreement by Surety

Any surety may **terminate** his or her surety agreement by signing a statement under oath terminating the agreement before the clerk of court having jurisdiction over the case. CR-003 (Rev. 08/97). This form is available at any court clerk's office. The surety must have notified

either the defendant or the defendant's attorney of his or her intention to terminate. Maine law is silent regarding whether the notice must be in writing or if an oral notice is sufficient. If no substitute surety appears, the court must order the defendant's arrest, because the lack of a surety means that the defendant is no longer in compliance with the conditions of bail. However, until the defendant is actually arrested, posts new bail, or a new surety appears for the defendant, the original surety is still obligated to ensure the defendant's appearance and good behavior.

If there is more than one surety on the bail, termination is effective when one or both sureties terminate--again, the defendant must be arrested or a new surety must appear because, otherwise, the defendant will no longer be in compliance with the conditions of bail.

Post-Conviction Bail

A surety is not responsible for a defendant after conviction "unless the surety has agreed to act as post-conviction surety." Be sure that the surety has indicated on the back of the bail bond whether he or she is willing to continue as surety after conviction. After the final disposition of a case, the judge will sign the discharge of bail lien form. CR-005 (Rev. 11/96.) It is the responsibility of the person who filed the lien to secure a copy of this form from the clerk's office, pay the required fees at the Registry of Deeds and record the discharge. Failure to record the discharge can create serious problems for the property owner if they choose to re-finance or sell their property at a later date. Be sure to inform the surety of their obligation to file the discharge after completion of the case.

If no bail lien was recorded, nothing needs to be done at the Registry because the State's claim to the real estate automatically expires when the defendant's obligation to post bail expires.

CHAPTER TWELVE
POST PROCESSING RESPONSIBILITIES

Once you have properly processed the bail bond and related paperwork, it is required that the bail commissioner promptly deliver to the regional communication center and the Courts appropriate copies of all paperwork and the funds collected.

Step One- Bail Conditions

Each jail facility has policies and procedures in place for ensuring that the bail bond, and the bail conditions, get promptly entered into the METRO system. Check with the jail administrator/jail intake staff at your jail for the processes they want you to follow. Keep in mind that it is imperative that bail amounts and conditions get promptly entered into the METRO system. Without such entry, law enforcement has no way of knowing about the bail amounts, no contact provisions, travel restrictions or drug or alcohol restrictions.

Step Two- Financial Responsibilities

All bail commissioners must open, and maintain, a special bail commissioner checking account at your local financial institution. On-line only financial institutions are not acceptable. It should have your full name and the label, Bail Commissioner Account, printed on every check. A check register, where you promptly enter every transaction, with sufficient information to track each bail, should be maintained and balanced every month. At a minimum, the register entry for each bail executed should have the date of the transaction, the deposit (bail amount), the amount of the bail commissioner fee, if any, and the Defendant's name and the Bail ID number noted. You should also maintain a notebook or spreadsheet that records every bail you executed, the identifying information, the date executed, the bail amount and type and whether or not you collected a bail commissioner fee for the transaction. An example of such record system is attached as **Appendix G.**

At no time should you ever use a personal checking account for your bail commissioner responsibilities. Likewise, no other individual, including your spouse, relative or friend, should have access to these funds or have check writing or withdrawal authority. This includes having this other individual sign the initial opening statement card. If the account has a debit or credit card associated with the account, do not allow anyone else to use the card or to access funds in the account.

Funds posted for bail must **NEVER** be mixed into your personal accounts or finances and must never be used by you for personal expenses. Likewise, "temporary loans" from bail funds are prohibited. These funds do not belong to you and use of funds in this manner could lead to criminal charges for Theft by Misapplication of Property. 17-A M.R.S. § 358.

Step Three -Processing Bail Paperwork

All bail commissioners must promptly process the bail bonds and turn the bonds, and a check made out to the State of Maine in the exact amount of the bail posted, into the appropriate clerk's office. This can be accomplished by delivering the bond and check to the clerk during regular business hours (8 am-4:30 pm) or by promptly mailing the bond and check into the clerk of court. In all instances, the bond and check **must** arrive at the Clerk's office no later than 3 business days from completion of the bond. Please do not wait until the last minute to mail this paperwork as at times delay in mail delivery can prevent the arrival of the bond in a timely manner.

If you had to change the date of the defendant's appearance from the one initially noted by law enforcement so as to remain in compliance with time restrictions, be sure that there is a note attached to the bond alerting the clerk to the change. You should also call or email the local district attorney's office and the arresting agency and provide them the same information. E-mail notification is preferred unless the time frame is so short that prudence dictates you place the call.

Once you have completed these steps, you may then withdraw the funds you earned for your fees. You should do so by writing a check to yourself for the fees you are owed and noting the payment to yourself in your records and in the account register. Remember, some institutions require that your account maintain minimum balances. Failure to track these restrictions can result in a bounced check. Sanctions, including payment of bounced check fees and even termination of your bail commissioner appointment can be imposed.

15 M.R.S.§ 1023(5) permits the Judicial Branch to require all bail commissioners to submit documentation on forms created by the Branch to verify fees earned. 15 M.R.S § 1023(8) provides, and the Chief Judge has established, rules requiring bail commissioners to bail an individual in those

instances where the defendant is unable to pay the bail commissioner fee. Thus, it is imperative that you keep careful records for each bail executed that contains detailed information.

Your copies of the bail bonds and accompanying records should be maintained for seven years. As you are not an employee of the Judicial Branch, no Federal Tax form 1099 will be issued. You are responsible for tracking the fees earned and for reporting this income on your state and federal tax returns. If you have questions concerning this, you should consult your tax professional.

CHAPTER THIRTEEN
PROFESSIONAL CONDUCT

Bail commissioners are defined by statute as judicial officers. 15 M.R.S § 1003(8). As such, each bail commissioner must perform their duties with upmost care, honesty and integrity. This includes remaining impartial at all times, projecting professionalism and treating all persons with dignity and respect.

So, what does this all mean? Impartial can be defined as an absence of bias or prejudice in favor of, or against, particular parties or classes of parties, or a particular occupation or individual. In the context of setting and executing bail, a bail commissioner must remain neutral, is prohibited from prejudging or treating an individual differently or more harshly because of their occupation, race, religion, ancestry, gender or gender preference, marital status or physical appearance. It also means that the bail commissioner must maintain an open mind in considering issues that may come before them.

A bail commissioner must also remain free from influence or controls other than those established by law. Independent judgement, based on the facts of the case and the provisions of the Bail Code, must be exercised at all times. A bail commissioner should not allow his or her decision-making process to be swayed by public clamor, community pressure or fear of criticism.

A bail commissioner shall be patient, dignified, and courteous to all defendants, law enforcement, correctional and emergency communication staff, sureties, court staff, members of the public, and others with whom the bail commissioner deals with in an official capacity. Always keep in mind that the arrest process can be upsetting, stressful and scary for the defendant and their family or friends. Treat them with the same courtesy you would expected to be treated with if you suddenly found yourself thrust into an unknown and unfamiliar experience. Be patient.

A bail commissioner should not share information gathered during the course of the bail process with members of the public, the press or other professionals who are not involved in the case. You should refrain from making any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court

or make any nonpublic statement that might subsequently interfere with a fair trial or hearing.

Included in these standards of professionalism and impartiality is the requirement that bail commissioners decline to set bail in any situation where there is a conflict of interest or an appearance of a conflict of interest. Obvious conflicts of interest would include setting bail for a family member, a close personal friend or your current employer. A conflict of interest would also be giving special consideration or treatment to someone you know that you wouldn't have given to a stranger.

Avoiding a conflict of interest, or an appearance of a conflict of interest does not mean that you must refuse to set or execute bail simply because you have met or interacted with the person before. In many areas of the State, this standard would be impossible to meet. Rather the test is, given the facts, and the outward appearance of your relationship to the person being bailed, could you imagine the general public having valid articulable reasons to question your impartiality in setting the bail? Remember that an appearance of a conflict of interest does not mean that you actually have a bias or that your motives are unethical, only that a reasonable person might perceive that all of the ingredients for impropriety are present based solely on your personal relationship with the individual being bailed.

CHAPTER FOURTEEN
BAIL COMMISSIONER QUALIFICATIONS AND TRAINING

Any resident of the State of Maine who is not employed by the Judicial Branch, by a law enforcement agency, by the Department of Corrections, by a law firm that handles criminal cases, by a local or regional communications (dispatch) center or by a District Attorney's Office in the area they wish to serve, may apply to serve as a bail commissioner. An applicant who was previously employed by one of these agencies may be considered for appointment as a bail commissioner so long as there is a determination by the Chief Judge that there would not be a conflict of interest, or an appearance of a conflict of interest, if appointed.

Any person employed by another branch of State, county or municipal government or connected in some way with a governmental agency, including law enforcement, may have a conflict of interest. To determine whether a conflict exists, each applicant must disclose his or her current and prior employment. They must also disclose any connections to close friends or relatives currently or previously employed in any of the fields listed above so that the Chief Judge can determine each applicant's suitability to serve as a bail commissioner.

The Office of the Chief Judge carefully reviews the application, the applicant's qualifications as well as the applicant's criminal and driving history. Because bail commissioners may request, receive and review state and national criminal histories, each applicant must be fingerprinted and his/her record must be free of criminal convictions as set by FBI policies.

Upon receipt of an application to become a bail commissioner, the court reviews the application to determine if there is a need for a bail commissioner in the region and whether the candidate is suitable for the position. If there is a need for a new bail commissioner in the region, and if the Chief Judge determines, after a background investigation, that the applicant is a suitable and qualified candidate, the Chief Judge of the District Court may approve the applicant. 15 M.R.S. § 1023(2).

Persons appointed as a bail commissioner are not state employees, are not subject to the civil service requirements, and serve at the pleasure of

the Chief Judge. Bail Commissioners are not paid by the Maine Judicial Branch and the Branch does not issue a W-2 or 1099 tax form to any bail commissioner. Each bail commissioner is personally responsible for maintaining all necessary records, financial accountings and supporting documents related to their position. Each bail commissioner is also responsible for reporting all income earned as a bail commissioner and for filing all necessary state and federal tax returns.

Each bail commissioner's term of appointment is for 5 years. Renewal of each appointment is determined solely by the Chief Judge. If a bail commissioner is determined to be eligible, re-appointments occur, en masse, every five years.

Pursuant to 15 M.R.S. §1023(2) and (7) selected applicants must successfully complete a training course within one year of appointment. However, the court requires that selected applicants successfully complete an orientation, classroom training and a series of field training observations prior to serving as a bail commissioner. The Court also periodically mandates that bail commissioners complete other mandatory training. Failure to complete training as mandated by the Court will result in the suspension of the bail commissioner's appointment and may result in removal from the list of authorized bail commissioners.

A commissioner "serve[s] at the pleasure of the Chief Judge of the District Court" 15 M.R.S. § 1023(2). In other words, a bail commissioner's appointment is not a vested right or a guarantee of permanent appointment or income. The Chief Judge or his or her designee is charged with reviewing all applications for appointment as well as complaints against bail commissioners and may impose discipline, up to and including termination of a bail commissioner's appointment, as necessary.

Bail commissioners may set bail when court is not in session. 15 M.R.S. § 1023. Nights, weekends, and court holidays are common times for bail commissioners to carry out his or her duties. Likewise, during the workweek, bail commissioners are routinely called to set or execute bail as judges and justices are busy resolving other cases in the courtroom or

are otherwise unavailable. Thus, a bail commissioner should expect that he/she may be called to set bail any time during a 24-hour period.

Bail commissioners also accept bail and execute bail bonds and related paperwork on bail that has been previously set by the court so that people in custody can be released pending trial or sentencing. Bail commissioners are considered "judicial officers" under the Maine Bail Code and as such must carry out their duties in a professional manner consistent with the law 15 M.R.S. § 1003(8).

CJIS Materials and Restrictions on Use or Release of Information

Criminal and motor vehicle histories are part of a statewide computer-generated system that is available to certified and trained law enforcement personnel in Maine and beyond. The system is maintained by the Maine State Police and is linked to national, and in some instances international, criminal history and law enforcement related data bases. Those data bases are coordinated and maintained by the Federal Bureau of Investigation. This system is commonly referred to as CJIS (Criminal Justice Information Services).

Federal law and regulations strictly restrict who can access these data bases and how the information in the data bases may be accessed, used or distributed. The Department of Public Safety routinely conducts unannounced auditing of persons or agencies who have access to the materials to ensure strict compliance with the confidentiality provisions of the system. As judicial officers, bail commissioners are entitled to access to CJIS information for the **sole** purpose of setting bail.

Before a person may begin their duties as a bail commissioner, and every two years thereafter, the commissioner must undertake, and then complete mandatory CJIS training. All persons with access to CJIS materials must not only take the training but must also successfully pass an on-line exam that demonstrates proficiency in the knowledge of these restrictions and of their responsibilities to ensure compliance with the law.

A copy of the certification of successful completion must be forwarded to the Manager of Criminal Process for filing in our audit file. After successful completion of the exam, all bail commissioners will be

required to take additional training every two years to maintain their eligibility to have access to the information.

You may review and use the information contained in CJIS materials when making your decisions about bail. You may NOT do the following:

1. Make or keep copies of criminal or motor vehicle records for your files;
2. Transmit CJIS records via the internet, fax, text or other electronic means;
3. Discuss the contents of CJIS files, either in person, by phone, email or text, with family, friends, neighbors, co-workers, the press or any other individual who is not certified and authorized to have access to the material;
4. Provide copies of CJIS information to non-authorized individuals; and
5. Distribute or discuss the materials outside your duties as a bail commissioner.

ODARA Training

As discussed in Chapter 7, before a Bail Commissioner can perform his or her duties, he or she must complete an ODARA training. This training is part of the initial training that must be completed before you start your duties. Bail commissioners may be required to undergo further training on ODARA s directed by the Chief Judge of the District Court.

APPENDICES

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Appendix A
Maine Rule of Unified Criminal Procedure 4

RULE 4. ARREST WARRANT OR SUMMONS
(a) Definitions. For purposes of this Rule the following definitions apply: (1) "Clerk" means a clerk or deputy clerk of the Unified Criminal Docket.

(2) "Electronic Arrest Warrant" means an arrest warrant, including a bench warrant, issued pursuant to statute and this Rule that exists in electronic form and is entered into, maintained, managed, enforced, executed or recalled under the statewide warrant management system pursuant to 15 M.R.S. § 653 and this Rule.

(3) "Paper Arrest Warrant" means an arrest warrant issued pursuant to statute and this Rule that exists in paper form rather than in electronic form because it is excluded from the statewide warrant management system pursuant to 15 M.R.S. § 652, or because it is not yet in electronic form due to it being issued by a justice of the peace, issued by any judicial officer outside of the business hours of the court, or due to the temporary unavailability of the statewide warrant management system or other exigent circumstance pursuant to 15 M.R.S. § 654(1).

(b) Grounds for Issuance of Arrest Warrant or Summons.

(1) *Indictment.* An indictment is grounds for issuance of an arrest warrant or summons for the defendant named in the indictment.

(2) *Probable Cause.* Probable cause to believe that a crime has been committed and that the defendant committed it is grounds for an arrest warrant or summons for the defendant. Probable cause shall appear from the information or complaint or from an affidavit or affidavits sworn to before the court or other officer empowered to issue process against persons charged with crimes against the State and filed with the information or complaint.

(3) *Bench Warrant.* A bench warrant may issue for a failure to appear or for contempt or as provided by statute.

(c) Who May Issue Arrest Warrant or Summons.

(1) *Indictment*. A clerk shall issue an arrest warrant or summons for the defendant named in the indictment when so directed by the court or so requested by the attorney for the State.

(2) *Probable Cause.* The court or, when duly authorized to do so, a justice of the peace or clerk may issue an arrest warrant or summons based on probable cause, as determined pursuant to subdivision (b)(2).

(3) *Bench Warrant.* The court may authorize the issuance of a bench warrant physically or electronically. A clerk shall authorize the issuance of a bench warrant physically or electronically when so directed by the court, except in cases of contempt.

(d) Content of Arrest Warrant or Summons.

(1) *Warrant*. The arrest warrant shall bear the caption of the court or division of the court from which it issues. It shall contain an electronic signature of the court, or clerk issuing the arrest warrant electronically, or contain a physical signature by the court or other person authorized to issue arrest warrants in the event the arrest warrant issued is a paper warrant. It shall contain the name of the defendant or, if the defendant's name is unknown, any name or description by which the defendant can be identified with reasonable certainty. The arrest warrant shall contain available information concerning the identity and location of the defendant, including, but not limited to, photographs of the defendant, the defendant's last known address identified by town, county and geographic codes, the defendant's date of birth, and any distinguishing physical characteristics that will aid in the location of the defendant and the execution of the warrant. It shall describe the crime charged and indicate when applicable that it is a crime involving domestic violence. It shall command that the defendant be arrested and brought before the court. The amount of bail may be fixed by the court and physically or electronically endorsed on the warrant.

(2) *Summons.* The summons shall be in the same form as the arrest warrant except that it shall summon the defendant to appear before the court at a stated time and place.

(e) Management of Electronic or Paper Arrest Warrant.

(1) *Electronic Arrest Warrant and Recall Order*. Electronic arrest warrants, and all orders recalling electronic arrest warrants, shall be entered into, stored, and retained in the electronic warrant docket management system as provided in 15

M.R.S. § 653(1). The electronic warrant docket management system shall be the sole official record of electronic arrest warrants issued and recalled pursuant to this Rule.

(2) *Mandatory Filing and Entering Electronically of the Original of Certain Paper Arrest Warrants*. Unless the paper arrest warrant has already been executed or recalled, the original of the following paper arrest warrants must be filed and entered electronically into the warrant document management system as follows:

(A) Any paper arrest warrant issued by a justice of the peace or issued by any judicial officer outside of the regular business hours of a court must be filed on the next regular business day and entered electronically by the court as soon as possible thereafter. The filing must be made with the court that would have jurisdiction and venue over a criminal action resulting from the warrant. The original of any paper arrest warrant filed with the court shall remain with the court.

(B) Any paper arrest warrant issued due to the temporary unavailability of the statewide warrant management system or other exigent circumstances must be filed on the next regular business day and entered electronically by the court as soon as possible thereafter. The filing must be made with the court that would have jurisdiction and venue over a criminal action resulting from the warrant. The original of any paper arrest warrant filed with the court shall remain with the court.

Once a paper arrest warrant described in paragraph (A) and (B) is entered electronically into the warrant docket management system, the resulting electronic arrest warrant becomes the sole official arrest warrant.

(3) *Filing of Paper Arrest Warrants Excluded from the Electronic Warrant Docket Management System*. Any paper warrants specifically excluded from the electronic warrant docket management system pursuant to 15 M.R.S. § 652 shall continue to be filed as follows:

(A) The original shall be filed with the court that would have jurisdiction and venue over a criminal action resulting from the warrant; and

(B) An attested copy shall be filed with the appropriate arrest warrant repository or the investigating agency, as provided by former 15 M.R.S. ch. 99 and the former standards issued pursuant to that chapter.

(f) Execution of Electronic or Paper Arrest Warrant or Service of Summons.

(1) *By Whom*. The electronic arrest warrant or paper arrest warrant shall be executed by any officer authorized by law. The summons may be served by any constable, police officer, sheriff, deputy sheriff, marine patrol officer of the Department of Marine Resources, warden of the Department of Inland Fisheries and Wildlife, or any person authorized to serve a summons in a civil action.

(2) *Territorial Limits*. The warrant may be executed or the summons may be served at any place within the State of Maine.

(3) *Manner of Execution of Electronic or Paper Arrest Warrant*. The electronic arrest warrant or paper arrest warrant shall be executed by the arrest of the defendant. If execution is of an electronic arrest warrant, showing the warrant to the defendant is not possible. If execution is of a paper arrest warrant, the officer need not have the warrant in the officer's possession at the time of the arrest but, upon request, the officer shall show the warrant to the defendant as soon as possible. If the officer is executing an electronic arrest warrant or if the officer does not have the paper arrest warrant in his or her possession at the time of the arrest, he or she shall inform the defendant of the crime charged and of the fact that an arrest warrant has been issued. The officer executing the electronic arrest warrant or paper arrest warrant shall bring the arrested defendant promptly before the court. If the arrest is made at place 100 miles or more from the court designated in the warrant, the defendant arrested, if bail has not been previously set or denied by the court, shall be taken before the nearest available court or, if authorized to set bail for the crime charged pursuant to Maine Bail Code, before the nearest available bail commissioner.

(4) *Service of Summons.* The clerk shall mail a summons to the defendant's last known address or shall deliver it to any officer authorized by law to execute or serve it or to the attorney for the State unless the defendant is in custody or otherwise before the court. More than one summons may issue for a defendant. Personal service is effected by delivering a copy to the defendant personally or by leaving it at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. A

summons to a corporation shall be served in the same manner as a summons to a corporation is served in a civil case.

(5) *Failure of Service or Failure to Appear in Response to Summons.* If a mailed summons is returned undelivered or if a defendant cannot be personally served or if a defendant fails to appear in response to a summons, the clerk shall request the court to authorize a bench warrant.

(g) Return of Electronic or Paper Arrest Warrant or Summons.

(1) *Warrant*. The officer executing an electronic arrest warrant shall make a return of the warrant as provided by 15 M.R.S. ch. 100 and the standards issued pursuant to that chapter. The officer executing a paper arrest warrant shall make a return of the warrant as provided by former 15 M.R.S. ch. 99 and the former standards issued pursuant to that chapter.

(2) *Summons.* On or before the return day, the person to whom a summons was delivered for service shall make return thereof. At the request of the attorney for the State made at any time while the charge is pending, a summons returned unserved or a duplicate thereof may be delivered by the clerk to any authorized person for service.

Appendix B
Court Abbreviations

Abbreviation	Court name	Location
ALFSC	Alfred Superior Court	Alfred
ANDCD	Androscoggin Criminal Docket	Auburn
AROCD	Aroostook Criminal Docket	Caribou and Houlton[1]
AUBSC	Auburn Superior Court	Auburn
AUGDC	Augusta District Court	Augusta
AUGSC	Augusta Superior Court	Augusta
BANDC	Bangor District Court	Bangor
BANSC	Bangor Superior Court	Bangor
BATSC	Bath Superior Court	Bath
BARDC	Bar Harbor District Court[2]	closed
BELDC	Belfast District Court	Belfast
BELSC	Belfast Superior Court	Belfast
BIDDC	Biddeford District Court	Biddeford
BRIDC	Bridgton District Court	Bridgton
CALDC	Calais District Court	Calais
CARDC	Caribou District Court	Caribou
CARSC	Caribou Superior Court	Caribou
CUMCD	Cumberland Criminal Docket	Portland
DOVDC	Dover-Foxcroft District Court	Dover-Foxcroft
DOVSC	Dover-Foxcroft Superior Court	Dover-Foxcroft
ELLDC	Ellsworth District Court	Ellsworth
ELLSC	Ellsworth Superior Court	Ellsworth
FARDC	Farmington District Court	Farmington
FARSC	Farmington Superior Court	Farmington
FORDC	Fort Kent District Court	Fort Kent
FRACD	Franklin Criminal Docket	Farmington
HANCD	Hancock Criminal Docket	Ellsworth
HOUDC	Houlton District Court	Houlton
HOUSC	Houlton Superior Court	Houlton
KENCD	Kennebec Criminal Docket	Augusta and Waterville
KNOCD	Knox Criminal Docket	Rockland
LEWDC	Lewiston District Court	Lewiston

[1] Cases are sent respectively to Houlton and Caribou depending upon the offense location.
[2] The Bar Harbor District Court is closed. All cases with this docket number should be sent to Ellsworth District Court.

LINCD	Lincoln Criminal Docket	Lincoln
LINDC	Lincoln District Court	Lincoln
LIVDC	Livermore District Court	Closed
MACDC	Machias District Court	Machias
MACSC	Machias Superior Court	Machias
MADDC	Madawaska District Court	Madawaska
MILDC	Millinocket District Court	Millinocket[3]
NEWDC	Newport District Court	Newport
OXFCD	Oxford Criminal Docket	South Paris
PENCD	Penobscot Criminal Docket	Bangor
PISCD	Piscataquis Criminal Docket	Dover-Foxcroft
PORDC	Portland District Court	Portland
PORSC	Portland Superior Court	Portland
PREDC	Presque Isle District Court	Presque Isle
ROCDC	Rockland District Court	Rockland
ROCSC	Rockland Superior Court	Rockland
RUMDC	Rumford District Court	Rumford
SAGCD	Sagadahoc Criminal Docket	West Bath
SKODC	Skowhegan District Court	Skowhegan
SKOSC	Skowhegan Superior Court	Skowhegan
SOMCD	Somerset Criminal Docket	Skowhegan
SOPDC	South Paris District Court	South Paris
SPRDC	Springvale District Court	Springvale
WALCD	Waldo Criminal Docket	Belfast
WASCD	Washington Criminal Docket	Machias
WATDC	Waterville District Court	Waterville
WESDC	West Bath District Court	West Bath
WISDC	Wiscasset District Court	Wiscasset
WISSC	Wiscasset Superior Court	Wiscasset
YORKDC	York District Court	York
YORCD	York Criminal Docket	Alfred[4]

[3] Please see court address list for mailing of all bonds and related paperwork

[4] All criminal matters, except for DV crimes, begin in their respective District Court based on the location of the offense

APPENDIX C

Per 15 M.R.S. §1023(4) and 1092(4), effective September 28, 2011, Bail Commissioners are prohibited from setting bail in the following matters:

Crime	***Statute***	***Class***
Violation of a Condition of Release when:	15 M.R.S.§ 1092	
The condition of release alleged to be violated relates to any new criminal conduct for a crime classified as Class C or above	15 M.R.S. 1092(sub-§4)(A)	A-C
The condition of release alleged to be violated relates to new criminal conduct for a Class D or E crime involving domestic violence.	15 M.R.S. 1092(sub-§4)(A)	D or E
The condition of release alleged to be violated relates to new criminal conduct for a Sexual Assault pursuant to Title 17-A, Chapter 11.	15 M.R.S. 1092(sub-§4)(A) referencing 17-A M.R.S. Sections 253 -Gross Sexual Assault 254-Sexual Abuse of a Minor 255-A-Unlawful Sexual Contact 256-Visual Sexual Aggression Against a Child 258-Sexual Misconduct with a Child Under 14 YOA 259-Sexual Solicitation of a Child by Any Means 260-Unlawful Sexual Touching 261-Prohibited Contact with a Minor: sex offender restricted zone	A-D

The condition of release alleged to be violated relates to new criminal conduct for a crime involving sexual exploitation of minors pursuant to Title 17-A, Chapter 12.	15 M.R.S. 1092(sub-§4)(A) referencing 17-A M.R.S. Sections 282-Sexual Exploitation of Minors 283-Dissemination of Sexually Explicit Materials	A
The condition of release alleged to be violated relates to new criminal conduct for a crime involving sexual exploitation of minors pursuant to Title 17-A, Chapter 12.	15 M.R.S. 1092(sub-§4)(A) referencing 17-A M.R.S. Sections 284-Possession of Sexually Explicit Materials	A-C
The underlying Crime for which pre-conviction bail was granted is classified as a Class C or above.	15 M.R.S. 15 M.R.S. 1092(sub- §4)(B)	A-C
The Underlying Crime for which pre-conviction bail was granted is a crime involving domestic violence.	15 M.R.S. 15 M.R.S. 1092(sub- §4)(C)	C or D

The Underlying Crime for which pre-conviction bail was granted is a crime involving Sexual assault pursuant to Title 17-A, Chapter 11.	15 M.R.S. 1092(sub-§4)(C) referencing 17-A M.R.S. Sections 253 -Gross Sexual Assault 254-Sexual Abuse of a Minor 255-A-Unlawful Sexual Contact 256-Visual Sexual Aggression Against a Child 258-Sexual Misconduct with a Child Under 14 YOA 259-Sexual Solicitation of a Child by Any Means 260-Unlawful Sexual Touching 261-Prohibited Contact with a Minor: sex offender restricted zone	A-D
The Underlying Crime for which pre-conviction bail was granted is a crime involving sexual exploitation of a minor pursuant to Title 17-A, chapter 12.	15 M.R.S. 1092(sub-§4)(C) referencing 17-A M.R.S. Sections 282-Sexual Exploitation of Minors 283-Dissemination of Sexually Explicit Materials 284-Possession of Sexually Explicit Materials	A-C

Europe

Albanian — Shqip
Tregoni me gisht gjuhën tuaj. Do të thërrasim një
përkthyes. Përkthyesi ofrohet falas për ju.

Armenian — Հայերէն
Նշեք, թե որ լեզվով եք խոսում: Թարգմանիչ կկանչենք:
Թարգմանչի ծառայությունները տրամադրվում են անվճար:

Basque — Euskara
Zure hizkuntza aukeratu. Jarraian interprete bati
deituko diogu. Zerbitzu hau doakoa da.

Bosnian — Bosanski
Pokažite svoj jezik. Pozvat ćemo tumača.
Usluge tumača su besplatne za vas.

Bulgarian — Български
Посочете вашия език. Ще бъде извикан преводач.
Преводачът е осигурен безплатно за вас.

Croatian — Hrvatski
Pokažite svoj jezik. Prevoditelj će biti pozvan.
Prevoditelja ćete dobiti besplatno.

Czech — Čeština
Ukažte na váš jazyk. Bude zavolán tlumočník.
Tlumočení je pro vás bezplatné.

Danish — Dansk
Peg på dit sprog. En tolk vil blive tilkaldt.
Tolken tilbydes uden omkostninger for dig.

Dutch — Nederlands
Wijs uw taal aan. Er zal contact worden opgenomen
met een tolk. De service van de tolk is geheel gratis.

Estonian — Eesti keel
Osutage oma keelel. Vastava tõlgiga võetakse ühendust.
Tõlketeenus on teie jaoks tasuta.

Finnish — Suomi
Osoita maasi kieltä. Kutsumme tulkin paikalle.
Tulkin käyttö on sinulle ilmaista.

French — Français
Indiquez votre langue et nous appellerons un interprète.
Le service est gratuit.

German — Deutsch
Zeigen Sie auf Ihre Sprache. Ein Dolmetscher wird
angefordert. Der Dolmetscher ist für Sie kostenlos.

Greek — Ελληνικά
Δείξτε τη γλώσσα σας και θα καλέσουμε ένα
διερμηνέα. Ο διερμηνέας σας παρέχεται δωρεάν.

Hungarian — Magyar
Válassza ki a nyelvet. Tolmácsot fogunk hívni.
A tolmács az Ön számára díjtalan.

Europe - continued

Icelandic — Íslenska
Bentu á þitt tungumál. Það verður hringt í túlk.
Túlkurinn er þér að kostnaðarlausu.

Italian — Italiano
Indicare la propia lingua. Un interprete sarà chiamato.
Il servizio è gratuito.

Lithuanian — Lietuvių
Nurodykite savo kalbą. Bus pakviestas vertėjas.
Vertėjas jums bus suteiktas nemokamai.

Macedonian — Македонски
Покажете на јазикот на кој зборувате. Ќе повикаме
преведувач. Услугите на преведувачот се бесплатни.

Norwegian — Norsk
Pek på språket dit. En tolk vil bli tilkalt.
Tolken tilbys kostnadsfritt for deg.

Polish — Polski
Proszę wskazać swój język i wezwiemy tłumacza.
Usługa ta zapewniana jest bezpłatnie.

Portuguese — Português
Indique o seu idioma. Um intérprete será chamado.
A interpretação é fornecida sem qualquer custo para você.

Romanian — Română
Indicați limba pe care o vorbiți. Vi se va face legătura
cu un interpret caare vă este asigurat gratuit.

Russian — Русский
Укажите язык, на котором вы говорите. Вам вызовут
переводчика. Услуги переводчика предоставляются бесплатно.

Serbian — Српски
Покажите свој језик. Преводилац ће бити позван.
Преводилац је за вас обезбеђен бесплатно.

Slovak — Slovenčina
Ukážte na svoj jazyk. Zavoláme tlmočníka.
Tlmočenie je pre vás bezplatné.

Spanish — Español
Señale su idioma y llamaremos a un intérprete.
El servicio es gratuito.

Swedish — Svenska
Peka på ditt språk. En tolk kommer att tillkallas.
Tolken erbjuds utan kostnad för dig.

Ukranian — Українська
Вкажіть вашу мову. Вам викличуть перекладача.
Послуги перекладача надаються безкоштовно.

Yiddish — יידיש
ווייזט אַן אויף אייער שפּראַך און מען וועט רופן אַן איבערזעצער.
איר דאַרפט גאָרניט באַצאָלן פאַר דער איבערזעצונג.

Pacific Islands

Fijian — Vosa Vakaviti
Dusia na nomu vosa. Ni na Vakarautaki mai e dua na dau
vakadewa vosa. Na dau vakadewa vosa e sega ni saumi.

Ilocano — Ilokano
Itudo yo ti sao yo. Ag awag da ti maysa nga mangipatpatarus
nga tumulong kadakayo nga awan ti bayad na.

Indonesian — Bahasa Indonesia
Tunjukkan bahasa Anda. Penerjemah akan dihubungi.
Penerjemah disediakan gratis tanpa dikenakan biaya.

Malay — Bahasa Melayu
Tunjukkan bahasa anda. Jurubahasa akan dihubungi.
Jurubahasa akan disediakan tanpa anda dikenakan bayaran.

Marshallese — Kajin Majól
Kelet kajin eo am. Im renaaj kúr juón am Ri-Ukok.
Ri-Ukok eo enaaj jibañ eok ilo ejjelok wóneen.

Samoan — Fa'asamoa
Fa`asino lau gagana. Ole a vala`au se fa`amatala`upu.
Ua saunia se fa`amatala`upu e aunoa ma se tau e te totogiina.

Tagalog — Tagalog
Ituro po ang inyong wika. Isang tagasalin ang
ipagkakaloob nang libre sa inyo.

Tongan — Lea Faka-Tonga
Tuhu`I mai ho`o lea fakafonua. `E ui ha fakatonulea.
`Oki ta`etotongi kia `a e fakatonulea.

North America, South America, and Caribbean

French — Français
Indiquez votre langue et nous appellerons un interprète.
Le service est gratuit.

Haitian Creole — Kreyòl
Lonje dwèt ou sou lang ou pale a epi nap rele yon
entèprèt pou ou. Nou ba ou sèvis entèprèt la gratis.

Navajo — Diné k'ehjí
Nizaad biká'ígíí bich'i' dah diilníih. Ata' halne'é ła' hágo bi'di'dooniił.
Ata' halne'é éí doo haida yit'éego bik'è ni'diiłéel da. T'áájíík'e ná ata' hodoolnih.

Portuguese — Português
Indique o seu idioma. Um intérprete será chamado.
A interpretação é fornecida sem qualquer custo para você.

Spanish — Español
Señale su idioma y llamaremos a un intérprete.
El servicio es gratuito.

LanguageLine Solutions℠

Language Identification Card

As a LanguageLine Solutions client you have access to over-the-phone interpretation 24 hours a day, 7 days a week. Use this Language Identification Card in a face-to-face situation to determine which language a person speaks. The Language ID Card lists the languages most frequently encountered in North America, grouped by the geographical region where they are commonly spoken.

- To use the Language ID Card efficiently, locate the geographical region where you believe the speaker may be from. (Pacific Islands, Europe, etc.)
- Show the person the languages listed for that region. The message underneath each language says: "Point to your language. An interpreter will be called. The interpreter is provided at no cost to you."

English — **English**
Point to your language. An interpreter will be called.
The interpreter is provided at no cost to you.

- Refer to your Quick Reference Guide (QRG) to access an interpreter through LanguageLine Solutions. In most cases, an interpreter is available within seconds.
- If you are unable to identify the language, our representative will help you.

Please note: LanguageLine Solutions interprets from English into more than 200 languages. Only the most requested languages are listed here. This list is subject to change based upon client demand.

From North America call **1800 752-6096** for more information about our service.

Interpreting *Translation* *Testing and Training*

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India, Pakistan, and Southwest Asia

Bengali বাংলা
আপনার ভাষার দিকে নির্দেশ করুন। একজন দোভাষীকে ডাকা হবে। দোভাষী আপনি নিখরচায় পাবেন।

Gujarati ગુજરાતી
તમારી ભાષાનો ઉલ્લેખ કરો. દુભાષિયાને બોલાવી શકાશે. દુભાષિયાને બોલવવામાં તમારે ખર્ચ આપવો નહિ પડે

Hindi हिंदी
अपनी भाषा को इंगित करें। जिसके अनुसार आपके लिए दुभाषिया बुलाया जाएगा। आपके लिए दुभाषिया की निशुल्क व्यवस्था की जाती है।

Malayalam മലയാളം
നിങ്ങളുടെ ഭാഷയിലേക്ക് ചൂണ്ടുക. ഒരു വ്യാഖ്യാതാവിന്റെ സേവനം ലഭ്യമാക്കും. ഈ വ്യാഖ്യാതാവിന്റെ സേവനം നിങ്ങൾക്ക് സൗജന്യമായാണ് നൽകുന്നത്.

Nepali नेपाली
आफ्नो भाषातर्फ औंल्याउनुहोस्। एक दोभाषेलाई बोलाइनेछ। तपाईंको बिना कुनै खर्चको, एकजना दोभाषे उपलब्ध गराइनेछ।

Punjabi ਪੰਜਾਬੀ
ਆਪਣੀ ਭਾਸ਼ਾ ਵੱਲ ਇਸ਼ਾਰਾ ਕਰੋ। ਜਿਸ ਮੁਤਾਬਕ ਇਕ ਦੁਭਾਸ਼ੀਆ ਬੁਲਾਇਆ ਜਾਵੇਗਾ। ਤੁਹਾਡੇ ਲਈ ਦੁਭਾਸ਼ੀਆ ਦੀ ਮੁਫਤ ਇੰਤਜ਼ਾਮ ਕੀਤਾ ਜਾਂਦਾ ਹੈ।

Sinhalese සිංහල
ඔබේ භාෂාව පෙන්වන්න. එක පරිවර්තකයෙකු කැඳවෙනු ඇත. එක පරිවර්තකය ඔබ වෙත නොමිලේ සැපයෙනු ඇත.

Tamil தமிழ்
உங்கள் மொழியைச் சுட்டிக்காட்டுங்கள். மொழிபெயர்ப்பாளர் ஒருவர் அழைக்கப்படுவார். மொழிபெயர்ப்பாளருக்காக நீங்கள் செலவு செய்யத்தேவையில்லை.

Telugu తెలుగు
మీ భాషను గుర్తించండి. మీ భాషానువాదకులను పిలువబడును. మీకు ఎటువంటి ఖర్చు లేకుండా భాషానువాదకులను సమకూర్చబడుదుము.

Urdu اُردو
اپنی زبان پر اشارہ کریں۔ ایک ترجمان کو بلاجائے گا۔ ترجمان کا انتظام آپ پر بغیر کسی خرچ کے کیا جائے گا۔

Africa

Acholi Acoli
Siem thok ma iyae. Ja loko ibiro luongi.
Jaloko no ochiuni ma onge chudo.

Amharic አማርኛ
ቋንቋዎትን ያመልክቱ። አስተርጓሚ ይጠራል። አስተርጓሚው በነጻ ይቀርብልዎታል።

Arabic عربي
أشر إلى لغتك. وسيتم الاتصال بمترجم فوري. كما سيتم إحضار المترجم الفوري مجاناً.

Africa - continued

Dinka Thok monyjang
Weet ten thoungdie. Raan weetgeryic a col.
Agerwelyic ku a cin aroop biyik yen.

French Français
Indiquez votre langue et nous appellerons un interprète.
Le service est gratuit.

Hausa Hausa
Nuna zuwa ga yarenka. Za a kira tafinta. An samar maka da tafintan ne ba tare da sai an biya kudi ba.

Italian Italiano
Indicare la propia lingua. Un interprete sarà chiamato.
Il servizio è gratuito.

Nuer Mägäcä luqäddä
Ku tïlmään luqäddäädä. Turjubään äyää looyëërï-doonää.
Turjubäänkä lägugu yëëräyo wää bïläänh.

Oromo Oromo
Gara afaan keetti eeri. Turjumaanni ni waamama.
Turjumaanni beesee takka malee siif qophaawa.

Portuguese Português
Indique o seu idioma. Um intérprete será chamado.
A interpretação é fornecida sem qualquer custo para você.

Portuguese Creole Crioulo Portugues
Nho pontâ pa lingu qui nho ta papiâ. No ta arranja um interprete pa nho. No ta rranja um interprete e nho ca ta pagâ nada pa el.

Somali Af-Soomaali
Farta ku fiiqluqadaada… Waxa laguugu yeeri doonaa turjubaan. Turjubaanka wax lacagi kaaga bixi mayso.

Swahili Kiswahili
Onyesha lugha yako. Mkalimani ataitwa.
Utapewa mkalimani bila gharama yoyote.

Tigrinya ትግርኛ
ቋንቋኹም አመልክቱ፡፡ አተርጓሚ ክጽዋእ ይኽእል እዩ፡፡ ንአተርጓሚ እትከፍልዎ ዝኾነ ክፍሊት የለን፡፡

Wolof Wolof
Taannal sa lakk ngir fiou bolela ak kou degg sa lakk mou dimbeuli leu. Ndimbeul bi do ci fey dara.

Yoruba Yorùbá
Tọ́ka sí èdè rẹ. A ó pe ògbùfọ̀ kan.
Ọ̀fẹ́ ni a ó pe ògbùfọ̀ yìí fún ọ.

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Middle East

Arabic عربي
أشر إلى لغتك. وسيتم الاتصال بمترجم فوري. كما سيتم إحضار المترجم الفوري مجاناً.

Armenian Հայերէն
Նշեք, թե որ լեզվով եք խոսում: Թարգմանիչ կկանչեն: Թարգմանչի ծառայությունները տրամադրվում են անվճար:

Azerbaijani Azərbaycan dili
Danışdığınız dili bildirin. Sizin üçün tərcüməçi dəvət olunacaq.Tərcümə xidməti üçün ödəniş tələb olunmur.

Dari دری
زبان مود نظر را نشانی کنید. یک ترجمان فراخوانده خواهد شد. این برای شما کدام هزینه در پی نخواهد داشت.

Farsi فارسي
زبان مورد نظر خود را مشخص کنید. یک مترجم برای شما درخواست خواهد شد. مترجم بصورت رایگان در اختیار شما قرار می گیرد.

Hebrew עברית
הצבע לעבר השפה שלך, ואנחנו נתקשר למתורגמן. שירותו של המתורגמן ניתן ללא תשלום.

Kurdish كوردى
ئاماژە بە زمانەکەتان. وەرگێڕێک بانگ دەکرێت. بۆ ئامادەکردنی وەرگێڕ هیچ پارەیەک لە تۆ وەرناگیردرێت.

Pashto پښتو
خپلې ژبې ته اشاره وکړئ. یو ژباړونکی به راوبلل شي. ستاسو له پاره د ژباړونکي انتظام په وړیا توګه کیږي.

Turkish Türkçe
Konuştuğunuz dili gösterin. Sizin için bir çevirmen aranacaktır. Bu çevirmen size ücretsiz sağlanır.

Asia

China	請指認您的語言，以便為您提供免費的口譯服務。	请指认您的语言，以便为您提供免费的口译服务。
Cantonese	廣東話	广东话
Chaochow	潮州話	潮州话
Fukienese	福建話	福建话
Mandarin	國語	普通话
Shanghai	上海話	上海话
Taiwanese	台灣話	台湾话
Toishanese	台山話	台山话

Asia- continued

Burmese မြန်မာ
သင့်ဘာသာစကားကို ညွှန်ပြပါ။ စကားပြန် ခေါ်ပေးပါမယ်။ သင့်အတွက် စကားပြန် အခမဲ့ ပေးပါမယ်။

Hmong Hmoob
Taw rau koj hom lus. Yuav hu rau ib tug neeg txhais lus.
Yuav muaj neeg txhais lus yam uas koj tsis tau them dab tsi.

Indonesian Bahasa Indonesia
Tunjukkan bahasa Anda. Penerjemah akan dihubungi.
Penerjemah disediakan gratis tanpa dikenakan biaya.

Japanese 日本語
あなたの話す言語を指してください。
無料で通訳サービスを提供します。

Karen ကညီကျိာ်
နဲ့ဉ်လီၤဆုနကျိာ်.တၢ်ကကီးဟုၤကျိာ်ထံတၢ်. တၢ်ဟ့ဉ်ဟုၤကျိာ်ထံတၢ်လၢတအိ့ဉ်ဒီး:အဖျၤအကလံၤဘဉ်.

Khmer (Cambodian) ខ្មែរ (កម្ពុជា)
សូមចង្អុលภาษาអ្នក។ យើងនឹងហៅអ្នកបកប្រែภาษาមកជួន។ អ្នកបកប្រែภาษาនឹងជួយអ្នកដោយមិនគិតថ្លៃ។

Korean 한국어
귀하께서 사용하는 언어를 지정하시면 해당 언어 통역 서비스를 무료로 제공해 드립니다.

Laotian ພາສາລາວ
ຊີ້ບອກພາສາທີ່ເຈົ້າເວົ້າໄດ້. ພວກເຮົາຈະຕິດຕໍ່ນາຍພາສາໃຫ້. ທ່ານບໍ່ຕ້ອງເສຍເງິນຄ່າແປໃຫ້ແກ່ນາຍແປພາສາ.

Malay Bahasa Melayu
Tunjukkan bahasa anda. Jurubahasa akan dihubungi.
Jurubahasa akan disediakan tanpa anda dikenakan bayaran.

Mien Mien
Nuqv longc meih nyei waac fingx. Ninh mbuo porv waac mienh oix zuqc heuc daaih lorx meih. Ninh mbuo porv waac mienh tengx nyei jiauv louc yaac baeqc thenx maiv zuqc cuotv zinh nyaanh faan-liuc.

Mongolian Монгол
Танай хэлээ эаа. Орчуулагч дуудагдана.
Орчуулагчийн тусламж танд үнэгүй байх болно.

Thai ไทย
ช่วยชี้ที่ภาษาที่ท่านพูด แล้วเราจะจัดหาล่ามให้ท่าน การใช้ล่ามไม่ต้องเสียค่าใช้จ่าย

Vietnamese Tiếng Việt
Hãy chỉ vào ngôn ngữ của quý vị. Một thông dịch viên sẽ được gọi đến, quý vị sẽ không phải trả tiền cho thông dịch viên.

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APPENDIX E
Superior Court/UCD Addresses and Contact numbers

Town/County	Address	Phone #	TTY #
Alfred/York UCD[1]	Mailing: P.O. Box 160, Alfred, ME 04002-0160 Physical: 45 Kennebunk Road, Alfred, ME 04002	(207) 324-5122	711 Maine Relay
Auburn/Androscoggin UCD[2]	2 Turner Street, Auburn, ME 04210	(207) 330-7500	711 Maine Relay
Augusta/Kennebec UCD[3]	1 Court Street, Suite 101, Augusta, ME 04330	(207) 213-2800	711 Maine Relay
Bangor/Penobscot UCD	78 Exchange Street, Bangor, ME 04401	(207) 561-2300	711 Maine Relay
Bath/Sagadahoc UCD	101 New Meadows Road, West Bath, ME 04530	(207) 443-9733	711 Maine Relay
Belfast/Waldo UCD	Mailing: 103 Church Street, Belfast, ME 04915 Physical: 137 Church Street, Belfast, ME 04915	(207) 338-1940	711 Maine Relay
Caribou/Aroostook UCD[4]	144 Sweden Street, Caribou 04736	(207) 498-8125	711 Maine Relay

[1] For all misdemeanor cases, use the Court of original jurisdiction for the address to be used on the bail bond unless otherwise noted on Court paperwork or the warrant. For all felonies, use the Alfred address.
[2] All appearances for initial arraignment or first appearances are held in Lewiston. For all other matters use the address indicated on the Court paperwork or warrant as provided by the Court.
[3] For all arraignments on Class D or E on Waterville UCD cases, use the Waterville District Court address. For Waterville Class A, B or C offenses, use the Augusta address. For Waterville FTA warrants for arraignments only, use the Waterville District Court address. For all other matters use the Augusta address unless otherwise noted on the Court paperwork or warrant.
[4] For all cases, use the Court of original jurisdiction for the address to be used on the bail bond unless otherwise noted on Court paperwork or the warrant.

Dover-Foxcroft/Piscataquis UCD	159 East Main Street, Suite 21, Dover-Foxcroft, ME 04426	(207) 564-2240	711 Maine Relay
Ellsworth/Hancock UCD	50 State Street, Suite 2, Ellsworth, ME 04605	(207) 667-7176	711 Maine Relay
Farmington UCD/Franklin[5]	Mailing: 129 Main Street, Suite 1, Farmington, ME 04938 Physical: 140 Main Street, Farmington, ME 04938 or 129 Main Street, Farmington, ME 04938	(207) 778-2119	711 Maine Relay
Houlton/Aroostook UCD	Mailing: 144 Sweden Street, Caribou, ME 04736 Physical: 26 Court Street, Houlton, ME 04730	(207) 532-6563	711 Maine Relay
Machias/Washington UCD	Mailing: P.O. Box 526, Machias, ME 04654-0526 Physical: 85 Court Street, Machias, ME 04654	(207) 255-3326	711 Maine Relay
Portland UCD/Cumberland	205 Newbury Street, 2nd Floor, Portland, ME 04101	(207) 822-4204	711 Maine Relay
Rockland/Knox UCD	62 Union Street, Rockland, ME 04841	(207) 594-2576	711 Maine Relay
Skowhegan UCD/Somerset[6]	Mailing: 47 Court Street, Skowhegan, ME 04976 Physical: 41 Court Street, Skowhegan, ME 04976 or 47 Court Street, Skowhegan, ME 04976	(207) 474-9518	711 Maine Relay
South Paris/Oxford UCD	Mailing: P.O. Box 179, South Paris, ME 04281-0179 Physical: 26 Western Avenue, South Paris, ME 04281	(207) 743-8936	711 Maine Relay

[5]Use the 129 Main Street address on all bail bonds for first arraignments or appearances, use the 140 Main St. address on bail bonds for all FTA warrants and any other matters other than an arraignment or initial appearance.
[6] Use 47 Court Street on all bail bonds unless otherwise noted on the court paperwork or warrant.

Wiscasset/Lincoln UCD	Mailing: P.O. Box 249, Wiscasset, ME 04578-0249 Physical: 32 High Street, Wiscasset, ME 04578	(207) 882-7517	711 Maine Relay

District Court Addresses and Contact numbers

Town	Address	Phone #	TTY #
Augusta	1 Court Street, Suite 101, Augusta, ME 04330	(207) 213-2800	711 Maine Relay
Bangor	78 Exchange Street, Bangor, ME 04401	(207) 561-2300	711 Maine Relay
Belfast	103 Church Street, Belfast, ME 04915	(207) 338-3107	711 Maine Relay
Biddeford	25 Adams Street, Biddeford, ME 04005	(207) 283-1147	711 Maine Relay
Bridgton	3 Chase Street, Suite 2, Bridgton, ME 04009	(207) 647-3535	711 Maine Relay
Calais	382 South Street, Suite B, Calais, ME 04619	(207) 454-2055	711 Maine Relay
Caribou	144 Sweden Street, Suite 104, Caribou, ME 04736	(207) 493-3144	711 Maine Relay
Dover-Foxcroft	159 East Main Street, Suite 21, Dover-Foxcroft, ME 04426	(207) 564-2240	711 Maine Relay
Ellsworth	50 State Street, Suite 2, Ellsworth, ME 04605	(207) 667-7141	711 Maine Relay
Farmington	129 Main Street, Suite 1, Farmington, ME 04938	(207) 778-2119	711 Maine Relay

Fort Kent	139 Market Street, Suite 101, Fort Kent, ME 04743	(207) 834-5003	711 Maine Relay
Houlton	26 Court Street, Suite 201, Houlton, ME 04730	(207) 532-2147	711 Maine Relay
Lewiston	Mailing: P.O. Box 1345, Lewiston, ME 04243-1345 Physical: 71 Lisbon Street, Lewiston, ME 04240	(207) 795-4800	711 Maine Relay
Lincoln	52 Main Street, Lincoln, ME 04457	(207) 794-8512	711 Maine Relay
Machias	Mailing: P.O. Box 526, Machias, ME 04654-0526 Physical: 85 Court Street, Machias, ME 04654	(207) 255-3044	711 Maine Relay
Madawaska[7]	Mailing: 139 Market Street, Suite 101, Fort Kent, ME 04743 Physical: 645 Main Street, Madawaska, ME 04756	(207) 728-4700	711 Maine Relay
Millinocket[8]	Mailing: 52 Main Street, Lincoln, ME 04457 Physical: 207 Penobscot Avenue, Millinocket, ME 04462	(207) 723-4786	711 Maine Relay
Newport	12 Water Street, Newport, ME 04953	(207) 368-5778	711 Maine Relay

[7] For all mailed bonds, mail to the Fort Kent address but be sure to use the Madawaska address on the bail bond for the location of where the defendant needs to appear in Court.

[8] For all mailed bonds, mail to the Lincoln address but be sure to use the Millinocket address on the bail bond for the location of where the defendant needs to appear in Court.

Portland	205 Newbury Street, Portland, ME 04101	(207) 822-4200	711 Maine Relay
Presque Isle	27 Riverside Drive, Presque Isle, ME 04769	(207) 764-2055	711 Maine Relay
Rockland	62 Union Street, Rockland, ME 04841	(207) 596-2240	711 Maine Relay
Rumford	145 Congress Street, Rumford, ME 04276	(207) 364-7171	711 Maine Relay
Skowhegan	47 Court Street, Skowhegan, ME 04976	(207) 474-9518	711 Maine Relay
South Paris	26 Western Avenue, South Paris, ME 04281	(207) 743-8942	711 Maine Relay
Springvale	447 Main Street, Springvale, ME 04083	(207) 459-1400	711 Maine Relay
Waterville	18 Colby Street, Waterville, ME 04901	(207) 873-2103	711 Maine Relay
West Bath	101 New Meadows Road, West Bath, ME 04530	(207) 442-0200	711 Maine Relay
Wiscasset	Mailing: P.O. Box 249, Wiscasset, ME 04578-0249 Physical: 32 High Street, Wiscasset, ME 04578	(207) 882-6363	711 Maine Relay
York	11 Chases Pond Road, York, ME 03909	(207) 363-1230	711 Maine Relay

APPENDIX F Bail Lien

STATE OF MAINE

☐ UNIFIED CRIMINAL DOCKET
☐ SUPERIOR COURT
☐ DISTRICT COURT

County:_____
Location:_____
Docket No:_____

BAIL LIEN
(15 M.R.S. § 1071)

I, _____ of _____, _____ County, _____, certify that I am the owner of an interest in real estate in the town of _____, situated at _____(Street), _____, County, Maine, and I grant to the State of Maine a lien on the real estate in the amount of _____ Dollars ($_____) on a surety bail bond dated, _____, given for the release of _____, defendant, who is/was being held in custody for the (offense of) (reason) _____
_____,
which bail is returnable to the Unified Criminal Court of _____ Division/County, in _____ (city/town), Maine.

Date: _____

_____
Surety's Signature

_____
Surety's Name (Typed or Printed)

_____
Address

_____

State of Maine
County of _____, ss. Date: _____

Personally appeared the above named surety and acknowledged the foregoing instrument to be his/her free act and deed.

Before me, _____
(Bail Commissioner) (Clerk of Court) (Notary Public)(Attorney)

A TRUE COPY of the Bail Lien recorded on _____
at Vol._____ , Page _____ in the _____ County Registry of Deeds.

ATTEST: _____
Register

APPENDIX G Bail Commissioner's Log

Defendant's name	DOB	Bail ID #	Date of bail	Bail amount and type	Bail Fee	Charge(s)	Date bail turned into court	Check Number

APPENDIX H Social Security Disclosure Form

STATE OF MAINE

☐ UNIFIED CRIMINAL DOCKET
☐ SUPERIOR COURT
☐ DISTRICT COURT

County:_____
Location:_____
Docket No:_____

STATE OF MAINE/_____
Plaintiff

v.

_____
Defendant

SOCIAL SECURITY NUMBER CONFIDENTIAL DISCLOSURE FORM

My Social Security account number is _____ - _____ - _____.

Date: _____

_____
Plaintiff/Defendant

Family Matter Cases Only (divorce, parental rights & responsibilities)

1. If this case is a Family Matter case, the child(ren) involved must also have their Social Security Number disclosed:

Child's Name	Social Security Number

2. ☐ A Protective Custody case is currently pending, Court/Docket Number:_____

This form is confidential and shall not be disclosed unless ordered by the court.

APPENDIX I Bail Commissioner Prohibition on Setting Bail in Certain Domestic Violence Cases

CASES WHERE A BAIL COMMISSIONER MAY NOT SET BAIL IF THE VICTIM IS A FAMILY OR HOUSEHOLD MEMBER

Crime	*Statute*	*Class*
Murder	17-A M.R.S. 201	Murder
Felony Murder	17-A M.R.S. 202	A
Manslaughter	17-A M.R.S. 203	A or C
Assault-by an adult against a child less than 6 years old and that causes bodily injury to the child	17-A M.R.S. 207 sub-section (1)(B)	C
Domestic Violence Assault-only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3)	17-A M.R.S. 207-A sub-section (1)(B)	C
Aggravated Assault	17-A M.R.S. 208	B
Elevated Aggravated Assault	17-A M.R.S. 208-B	A
Elevated Aggravated Assault Against a Pregnant Person	17-A M.R.S. 208-C	A
Domestic Violence Criminal Threatening-only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 209-A sub-section (1)(B) or with § 1252(4)	C
Terrorizing-where natural consequence is causing the evacuation of a building, place of assembly or facility of public transport or causing occupants to be moved to or remain in a secured area	17-A M.R.S. 210 sub-section (1)(B)	C
Stalking-where Defendant has two or more prior convictions for stalking, violation of a protection from harassment order, violation of a PFA Order, violation of child protection case order or violation of similar order issued by U.S. or tribal court	17-A M.R.S. 210-A sub-section (1)(C)	C
Domestic Violence Terrorizing-only if charged as a Class C violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)), for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 210-B sub-section (1)(B) or with § 1252(4)	C
Domestic Violence Stalking-only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime for use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 210-C sub-section (1)(B) or with § 1252(4)	C
DV Reckless Conduct-only if charged as a Class C crime for a violation of subsection (1)(B)(1), (1)(B)(2) or (1)(B)(3) or if elevated to a Class C crime because of use of a dangerous weapon (via 17-A M.R.S. 1252(4)).	17-A M.R.S. 211-A sub-section (1)(B) or with § 1252(4)	C
Aggravated Reckless Conduct	17-A M.R.S. 213	B

CASES WHERE A BAIL COMMISSIONER MAY NOT SET BAIL IF THE VICTIM IS A FAMILY OR HOUSEHOLD MEMBER

Gross Sexual Assault	17-A M.R.S. 253	A, B, C
Sexual Abuse of a Minor-where victim is related to actor within the 2nd degree of consanguinity or where actor is at least 10 years older than victim	17-A M.R.S. 254 (1)(A-1) or (1)(A-2)	C
Unlawful Sexual Contact	17-A M.R.S. 255(1) sub-sections: (B), (C), (D), (E), (F), (F-1), (H), (J), (L), (M), (N), (O), (P), (R), (R-2), (V), or (X)	B, C
Visual Sexual Aggression of a Child-where victim is a child under 12 years old	17-A M.R.S. 256 sub-sections: (1)(B) or (1)(D)	C
Sexual Misconduct with a Child Under 14 years of Age-where victim is child under 12 years old	17-A M.R.S. 258 sub-section (1-A)	C
Solicitation of Child to Commit Prohibited Act	17-A M.R.S. 259-A (1)(B)	C
Kidnapping	17-A M.R.S. 301	A or B
Criminal Restraint-where victim is a child under **Criminal Restraint of a child** less than 8 years old	17-A M.R.S. 302 sub-sections (1)(A)(4) & (1)(B)(2)	C
The following violations of a **Temporary Protection from Abuse**[1] **order** where the **victim is a family or household member:** • Restraining the liberty of the victim; • Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the victim; • Repeatedly following the victim or being in the vicinity of the victim's home, school, business or place of employment; • Taking, converting, or damaging property in which the victim may have a legal interest; or • Having direct or indirect contact with the victim.	19-A M.R.S. §4006(5)(A)-(F), and § 4011	D
The following violations of a final (non-temp.) Protection from Abuse[1] **order where the victim is a family or household member:** • threatening, assaulting, molesting, harassing, attacking or otherwise abusing the victim or minor child in the household	19-A M.R.S. §4007(1)(A)-(E), (G) and § 4011	D, rarely C

[1] Violations of Protection from abuse orders that protect elderly or disabled individuals from abusive caregivers or that protect victims of sexual assault or stalking may not qualify if the victim is not a family or household member of defendant. Err on the side of caution; if you are can't get needed info. do not set bail (a judge will do so later).

CASES WHERE A BAIL COMMISSIONER MAY NOT SET BAIL IF THE VICTIM IS A FAMILY OR HOUSEHOLD MEMBER

• possession of a firearm or dangerous weapon • using or attempting/threatening to use physical force that would reasonably be expected to cause physical injury on the victim or minor child in the household • going upon premises of victim's residence • stalking the victim, repeatedly following the victim or repeatedly being at or in the vicinity of victim's home, school, business or employment • having direct or indirect contact with victim • entering residence of victim after being ordered not to return or be present • violating order of parental rights and responsibilities (but not child support) included in the protection order	19-A M.R.S. §4007(1)(A)-(E), (G) and § 4011	D rarely C

Appendix J

Maine Bail Code

Title 15 Maine Revised Statutes

§1001. Title

This chapter shall be known and may be cited as the "Maine Bail Code."

§1002. Legislative findings; statement of purpose

The Legislature finds that the statutory provisions relative to bail for a defendant in a criminal case are scattered throughout numerous provisions of Maine's statutory law and that many such statutory provisions have not been updated to reflect the modern development of the law. The Legislature finds that the Supreme Judicial Court sitting as the Law Court has recently decided cases interpreting the various constitutional provisions dealing with bail for a defendant in a criminal proceeding and has provided guidance as to the proper interpretation of those constitutional provisions. The Legislature finds that it is in the interest of the State and of individual criminal defendants that the law relative to bail be incorporated into a modern, integrated and consistent code that will provide a comprehensive statement of the law of bail. It is the purpose and intent of this chapter to consolidate and clarify the various provisions of Maine law dealing with the subject of bail for a defendant in a criminal case. [1987, c. 758, §20 (NEW).]

It is the purpose and intent of this chapter that bail be set for a defendant in order to reasonably ensure the appearance of the defendant as required, to otherwise reasonably ensure the integrity of the judicial process and, when applicable, to reasonably ensure the safety of others in the community. It is also the purpose and intent of this chapter that the judicial officer consider, relative to crimes bailable as of right preconviction, the least restrictive release alternative that will reasonably ensure the attendance of the defendant as required, or otherwise reasonably ensure the integrity of the judicial process. Finally, it is also the intent and purpose of this chapter that a defendant, while at liberty on bail, refrain from committing new crimes. [1997, c. 543, §1 (AMD).]

§1003. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 758, §20 (NEW).]

1. Bail. "Bail" is defined as follows.

A. In the preconviction context, "bail" means the obtaining of the release of the defendant upon an undertaking that the defendant shall appear at the time and place required and that the defendant shall conform to each condition imposed in accordance with section 1026 that is designed to ensure

that the defendant shall refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community. [2007, c. 374, §1 (AMD).]

B. In the post-conviction context, "bail" means the obtaining of the release of the defendant upon an undertaking that the defendant shall appear and surrender into custody at the time and place required and that the defendant shall conform to each condition imposed in accordance with section 1051 that is designed to ensure that the defendant refrains from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community. [2007, c. 374, §1 (AMD).]

[2007, c. 374, §1 (AMD) .]

2. Court. "Court" means any Justice of the Supreme Judicial Court or Superior Court or any active retired justice and any District Court Judge or active retired judge when assigned under Title 4, section 157-C.

[1999, c. 547, Pt. B, §38 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

3. Crime bailable as of right preconviction. "Crime bailable as of right preconviction" means a crime for which, under the Constitution of Maine, Article I, Section 10, a defendant has an absolute right to have bail set at the preconviction stage of any criminal proceeding.

[1987, c. 758, §20 (NEW) .]

3-A. Crime involving domestic violence. "Crime involving domestic violence" means:

A. As defined in Title 17-A, a crime of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct; and [2011, c. 341, §1 (NEW).]

B. A violation of a protective order under Title 19-A, section 4011, the alleged victim of which is a family or household member as defined in Title 19-A, section 4002, subsection 4. [2011, c. 341, §1 (NEW).]

[2011, c. 341, §1 (NEW) .]

4. Crime bailable only as a matter of discretion preconviction. "Crime bailable only as a matter of discretion preconviction" means a formerly capital offense for which, pursuant to a Harnish bail proceeding, a capital defendant's conditional constitutional right to have bail set at the preconviction stage of a criminal proceeding has been extinguished.

[1987, c. 758, §20 (NEW) .]

4-A. Ensure the safety of others in the community. "Ensure the safety of others in the community," when used in the context of the granting or denial of bail, means protecting community members, other than those already protected under subsection 5, from the potential danger posed by the defendant to a specific person or to persons in the community generally.

[2007, c. 374, §2 (NEW) .]

5. Ensure the integrity of the judicial process. To "ensure the integrity of the judicial process," when used in the context of the granting or denial of bail, means safeguarding the role of the courts in adjudicating the guilt or innocence of defendants by ensuring the presence of the defendant in court and otherwise preventing the defendant from obstructing or attempting to obstruct justice by threatening, injuring or intimidating a victim, prospective witness, juror, attorney for the State, judge, justice or other officer of the court.

A. [1997, c. 585, §2 (RP).]

B. [1997, c. 585, §2 (RP).]

[1997, c. 585, §2 (RPR) .]

5-A. Failure to appear. "Failure to appear" includes a failure to appear at the time or place required by a release order and the failure to surrender into custody at the time and place required

by a release order or by the Maine Rules of Unified Criminal Procedure, Rule 32(a) and Rule 38(d).
[2015, c. 431, §9 (AMD) .]

6. Formerly capital offenses. "Formerly capital offenses" means crimes which have been denominated capital offenses since the adoption of the Constitution of Maine.
[1987, c. 758, §20 (NEW) .]

7. Harnish bail proceeding. "Harnish bail proceeding" means a preconviction bail proceeding in which the State is offered the opportunity to obtain a judicial finding of probable cause that the defendant has committed a formerly capital offense, and the defendant, at the same proceeding, is afforded the opportunity to know and rebut the case against the defendant.
[1987, c. 758, §20 (NEW) .]

8. Judicial officer. "Judicial officer" includes the court, as defined in subsection 2, and a bail commissioner.
[1987, c. 758, §20 (NEW) .]

8-A. New criminal conduct. "New criminal conduct" refers to criminal activity by a defendant occurring after bail has been set.
[1997, c. 543, §6 (NEW) .]

9. Post-conviction. "Post-conviction" means any point in a criminal proceeding after a verdict or finding of guilty or after the acceptance of a plea of guilty or nolo contendere.
[1995, c. 356, §2 (AMD) .]

10. Preconviction. "Preconviction" means any point in a criminal proceeding before a verdict in the context of a jury trial or finding of guilty in the context of a jury-waived trial or before the acceptance of a plea of guilty or nolo contendere.
[1995, c. 356, §2 (AMD) .]

11. Unified Criminal Docket. "Unified Criminal Docket" means the unified criminal docket established by the Supreme Judicial Court.

§1004. Applicability and exclusions

This chapter applies to the setting of bail for a defendant in a criminal proceeding, including the setting of bail for an alleged contemnor in a plenary contempt proceeding involving a punitive sanction under the Maine Rules of Civil Procedure, Rule 66. It does not apply to the setting of bail in extradition proceedings under sections 201 to 229, post-conviction review proceedings under sections 2121 to 2132, probation revocation proceedings under Title 17-A, sections 1205 to 1208, supervised release revocation proceedings under Title 17-A, section 1233 or administrative release revocation proceedings under Title 17-A, sections 1349 to 1349-F, except to the extent and under the conditions stated in those sections. This chapter applies to the setting of bail for an alleged contemnor in a summary contempt proceeding involving a punitive sanction under the Maine Rules of Civil Procedure, Rule 66 and to the setting of bail relative to a material witness only as specified in sections 1103 and 1104, respectively. This chapter does not apply to a person arrested for a juvenile crime as defined in section 3103 or a person under 18 years of age who is arrested for a crime defined under Title 12 or Title 29-A that is not a juvenile crime as defined in section 3103. [2015, c. 431, §11 (AMD).]

§1021. Superior Court and Supreme Judicial Court Justices

Any Justice of the Supreme Judicial Court or Superior Court or any active retired justice shall set preconviction bail for a defendant in a criminal proceeding in accordance with this chapter. [1987, c. 758, §20 (NEW).]

§1022. District Court Judges

Any District Court Judge or active retired judge shall set preconviction bail for a defendant in a criminal proceeding in accordance with this chapter. When the crime upon examination is found to be one not within the jurisdiction of the District Court, the judge shall set preconviction bail for the defendant to appear before the Superior Court in accordance with this chapter. [1987, c. 758, §20 (NEW).

§1023. Bail commissioners

1. Authority. A bail commissioner, appointed under this section, shall set preconviction bail for a defendant in a criminal proceeding in accordance with this chapter, provided that a bail commissioner may not set preconviction bail for a defendant:

A. Who is charged with murder; [1987, c. 758, §20 (NEW).]

B. If the attorney for the State requests a Harnish bail proceeding for a defendant charged with any other formerly capital offense; or[1987, c. 758, §20 (NEW).]

C. As otherwise provided in subsection 4. [1987, c. 758, §20 (NEW).]

[1987, c. 758, §20 (NEW) .]

2. Appointment. The Chief Judge of the District Court may appoint one or more residents of the State as bail commissioners. A bail commissioner serves at the pleasure of the Chief Judge of the District Court, but no term for which a bail commissioner is appointed may exceed 5 years. The Chief Judge of the District Court shall require bail commissioners to complete the necessary training requirements set out in this section. Bail commissioners have the powers of notaries public to administer oaths or affirmations in carrying out their duties.

[1995, c. 356, §3 (AMD) .]

3. Immunity from liability. A person appointed and serving as a bail commissioner is immune from any civil liability, as are employees of governmental entities under the Maine Tort Claims Act, Title 14, chapter 741 for acts performed within the scope of the bail commissioner's duties.

[1989, c. 617, §3 (AMD) .]

4. Limitations on authority. A bail commissioner may not:

A. Set preconviction bail for a defendant confined in jail or held under arrest by virtue of any order issued by a court in which bail has not been authorized; [2001, c. 686, Pt. A, §1 (NEW).]

B. Change bail set by a court; [2011, c. 341, §2 (AMD).]

B-1. Set preconviction bail for a defendant alleged to have committed any of the following offenses against a family or household member as defined in Title 19-A, section 4002, subsection 4:

(1) A violation of a protection from abuse order provision set forth in Title 19-A, section 4006, subsection 5, paragraph A, B, C, D, E or F or Title 19-A, section 4007, subsection 1, paragraph A, A-1, A-2, B, C, D, E or G;

(2) Any Class A, B or C crime under Title 17-A, chapter 9;

(3) Any Class A, B or C sexual assault offense under Title 17-A, chapter 11;

(4) Kidnapping under Title 17-A, section 301;

(5) Criminal restraint under Title 17-A, section 302, subsection 1, paragraph A, subparagraph (4) or Title 17-A, section 302, subsection 1, paragraph B, subparagraph (2);

(6) Domestic violence stalking that is a Class C crime under Title 17-A, section 210-C, subsection 1, paragraph B;
(7) Domestic violence criminal threatening that is a Class C crime under Title 17-A, section 209-A, subsection 1, paragraph B or domestic violence criminal threatening that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1252, subsection 4;
(8) Domestic violence terrorizing that is a Class C crime under Title 17-A, section 210-B, subsection 1, paragraph B or domestic violence terrorizing that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1252, subsection 4; or
(9) Domestic violence reckless conduct that is a Class C crime under Title 17-A, section 211-A, subsection 1, paragraph B or domestic violence reckless conduct that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1252, subsection 4; [2011, c. 640, Pt. A, §1 (NEW).]
C. In a case involving domestic violence, set preconviction bail for a defendant before making a good faith effort to obtain from the arresting officer, the responsible prosecutorial office, a jail employee or other law enforcement officer:
(1) A brief history of the alleged abuser;
(2) The relationship of the parties;
(3) The name, address, phone number and date of birth of the victim;
(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; [2013, c. 424, Pt. A, §6 (RPR).]
D. Set preconviction or post-conviction bail for a violation of condition of release pursuant to section 1092, except as provided in section 1092, subsection 4; [2015, c. 436, §1 (AMD).]
E. Set preconviction bail using a condition of release not included in every order for pretrial release without specifying a court date within 8 weeks of the date of the bail order; [2015, c. 436, §2 (AMD).]
F. Set preconviction bail for crimes involving allegations of domestic violence without specifying a court date within 5 weeks of the date of the bail order; or [2015, c. 436, §3 (NEW).]
G. Notwithstanding section 1026, subsection 3, paragraph A, subparagraph (9-A), impose 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.[2015, c. 436, §3 (NEW).]
[2015, c. 436, §§1-3 (AMD) .]

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 this subsection. The sheriff of the county in which the defendant is detained may 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.
[2009, c. 23, §1 (AMD) .]

6. Attorneys-at-law. No attorney-at-law who has acted as bail commissioner in any proceeding may act as attorney for or on behalf of any defendant for whom that attorney-at-law

has taken bail in any such proceeding, nor may any attorney-at-law who has acted as attorney for a defendant in any offense act as bail commissioner in any proceeding arising out of the offense with which the defendant is charged.
[1987, c. 758, §20 (NEW) .]

7. Mandatory training. As a condition of appointment and continued service, a bail commissioner must successfully complete a bail training program, as prescribed and scheduled by the Chief Judge of the District Court, not later than one year following appointment. The Maine Criminal Justice Academy shall provide assistance to the Chief Judge of the District Court in establishing an appropriate training program for bail commissioners. The program shall include instruction on the provisions of this chapter, the relevant constitutional provisions on bail and any other matters pertinent to bail that the Chief Judge of the District Court considers appropriate and necessary. The Chief Judge of the District Court may establish a continuing education program for bail commissioners.
[1989, c. 147, §1 (AMD) .]

8. Bail commissioners in indigent cases. The Chief Judge of the District Court may adopt rules requiring a bail commissioner to appear and set bail regardless of whether the defendant is indigent and unable to pay the bail commissioner's fee. The Chief Judge of the District Court may also 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.

§1024. Clerks of court

Clerks of the District Court and clerks of the Superior Court, during the hours when the clerk's office is open for business and subject to the control of the District Court Judge or Superior Court Justice, may, without fee, take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime. Nothing in this section may be construed to prohibit the appointment of any clerk of the District Court or the Superior Court as a bail commissioner, except that no fee may be charged by the clerk while the clerk's office is open for business. [1987, c. 758, §20 (NEW).]

In any case when the District Judge or the Superior Court Justice has set bail for a defendant in a criminal case, the clerk of the District Court or of the Superior Court may, subject to the approval of the District Court Judge or Superior Court Justice, accept the bail, prepare the bond and take the acknowledgement of the defendant and sureties, if any, on the bond. [1987, c. 758, §20 (NEW).]

§1025. Law enforcement officers

A law enforcement officer making a warrantless arrest under Title 17-A, section 15 may, without fee, take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime. If authorized, a law enforcement officer may, without fee, take the personal recognizance with deposit in accordance with Title 12, section 10353, subsection 2, paragraph C; and Title 12, section 9707. The law enforcement officer's authority under this section continues as long as the arrestee remains in the officer's custody.

§1025-A. County jail employees

If a court issues an order that a defendant in custody be released, pending trial, on personal recognizance or upon execution of an unsecured appearance bond, whether or not accompanied by one or more conditions under section 1026, subsection 3, an employee of the county jail having custody of the defendant, if authorized to do so by the sheriff, may, without fee, prepare the personal recognizance or bond and take the acknowledgement of the defendant.

§1026. Standards for release for crime bailable as of right preconviction

1. In general. At the initial appearance before a judicial officer of a defendant in custody for a crime bailable as of right preconviction, the judicial officer may issue an order that, pending trial, the defendant be released:

A. On personal recognizance or upon execution of an unsecured appearance bond under subsection 2-A; [2007, c. 374, §3(AMD).]

B. On a condition or combination of conditions under subsection 3; or [1997, c. 543, §7 (AMD).]

C. On personal recognizance or execution of an unsecured appearance bond, accompanied by one or more conditions under subsection 3. [1997, c. 543, §7 (NEW).]

Every order for the pretrial release of any defendant must include a waiver of extradition by the defendant and the conditions that the defendant refrain from new criminal conduct and not violate any pending protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

[2007, c. 374, §3 (AMD) .]

2. Release on personal recognizance or unsecured appearance bond.

[2007, c. 518, §2 (RP) .]

2-A. Release on personal recognizance or unsecured appearance bond. The judicial officer shall order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond in an amount specified by the judicial officer, unless, after consideration of the factors listed in subsection 4, the judicial officer determines that:

A. The release would not reasonably ensure the appearance of the defendant as required; [2007, c. 374, §5 (NEW).]

B. The release would not reasonably ensure that the defendant would refrain from any new criminal conduct; [2007, c. 374, §5(NEW).]

C. The release would not reasonably ensure the integrity of the judicial process; or [2007, c. 374, §5 (NEW).]

D. The release would not reasonably ensure the safety of others in the community. [2007, c. 374, §5 (NEW).]

[2007, c. 374, §5 (NEW) .]

3. Release on conditions. Release on a condition or combination of conditions pursuant to subsection 1, paragraph B or C must be as provided in this subsection.

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;

(4) Abide by specified restrictions on personal associations, place of abode or travel;

(5) Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;

(6) Report on a regular basis to a designated law enforcement agency or other governmental agency;

(7) Comply with a specified curfew;

(8) Refrain from possessing a firearm or other dangerous weapon;

(9) Refrain from the possession, use or excessive use of alcohol and from any use of illegal drugs. A condition under this subparagraph may be imposed only upon the presentation to the judicial officer of specific facts demonstrating the need for such condition;

(9-A) Submit to:

(a) A random search for possession or use prohibited by a condition imposed under subparagraph (8) or (9); or

(b) A search upon articulable suspicion for possession or use prohibited by a condition imposed under subparagraph (8) or (9);

(10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;

(10-A) Enter and remain in a long-term residential facility for the treatment of substance abuse;

(11) Execute an agreement to forfeit, in the event of noncompliance, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;

(12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community;
(13) Return to custody for specified hours following release for employment, schooling or other limited purposes;
(14) Report on a regular basis to the defendant's attorney;
(15) Notify the court of any changes of address or employment;
(16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;
(17) Inform any law enforcement officer of the defendant's condition of release if the defendant is subsequently arrested or summonsed for new criminal conduct;
(18) Satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process and to ensure the safety of others in the community; and
(19) Participate in an electronic monitoring program, if available. [2015, c. 436, §4 (AMD).]
B. The judicial officer may not impose a financial condition that, either alone or in combination with other conditions of bail, is in excess of that reasonably necessary to ensure the appearance of the defendant at the time and place required, to ensure that the defendant will refrain from any new criminal conduct, to ensure the integrity of the judicial process or to ensure the safety of others in the community. [2007, c. 518, §3 (RPR).]
C. Upon motion by the attorney for the State or the defendant and after notice and upon a showing of changed circumstances or upon the discovery of new and significant information, the court may amend the bail order to relieve the defendant of any condition of release, modify the conditions imposed or impose further conditions authorized by this subsection as the court determines 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. [2007, c. 518, §3 (RPR).]
[2015, c. 436, §4 (AMD) .]

4. Factors to be considered in release decision. In setting bail, the judicial officer shall, on the basis of an interview with the defendant, information provided by the defendant's attorney and information provided by the attorney for the State or an informed law enforcement officer if the attorney for the State is not available and other reliable information that can be obtained, take into account the available information concerning the following:
A. The nature and circumstances of the crime charged; [1987, c. 758, §20 (NEW).]
B. The nature of the evidence against the defendant; and [1987, c. 758, §20 (NEW).]
C. The history and characteristics of the defendant, including, but not limited to:
(1) The defendant's character and physical and mental condition;
(2) The defendant's family ties in the State;
(3) The defendant's employment history in the State;
(4) The defendant's financial resources;
(5) The defendant's length of residence in the community and the defendant's community ties;
(6) The defendant's past conduct, including any history relating to drug or alcohol abuse;
(7) The defendant's criminal history, if any;
(8) The defendant's record concerning appearances at court proceedings;

(9) Whether, at the time of the current offense or arrest, the defendant was on probation, parole or other release pending trial, sentencing, appeal or completion of a sentence for an offense in this jurisdiction or another;
(9-A) Any evidence that the defendant poses a danger to the safety of others in the community, including 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;
(10) Any evidence that the defendant has obstructed or attempted to obstruct justice by threatening, injuring or intimidating a victim or a prospective witness, juror, attorney for the State, judge, justice or other officer of the court; and
(11) Whether the defendant has previously violated conditions of release, probation or other court orders, including, but not limited to, violating protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011. [2011, c. 680, §2 (AMD).]
[2011, c. 680, §2 (AMD) .]

5. Contents of release order. In a release order issued under subsection 2-A or 3, the judicial officer shall:
A. Include a written statement that sets forth all the conditions to which the release is subject in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and [1987, c. 758, §20 (NEW).]
B. Advise the defendant of:
(1) The penalties if the defendant fails to appear as required; and
(2) The penalties for and consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest. [1997, c. 543, §7 (AMD).]
[2007, c. 374, §10 (AMD) .]

6. Initial appearance in court. Nothing contained in this chapter may be construed as limiting the authority of a judge or justice to consider the issue of preconviction bail at a defendant's initial appearance in court.
[1989, c. 147, §2 (NEW) .]

7. Applicability of conditions of release. A condition of release takes effect and is fully enforceable as of the time the judicial officer sets the condition, unless the bail order expressly excludes it from immediate applicability.
[1995, c. 356, §5 (NEW.]

§1027. Standards for release for formerly capital offenses

1. In general. At the initial appearance before a judicial officer of a defendant in custody preconviction for a formerly capital offense, the judicial officer shall issue an order under section 1026, unless the attorney for the State moves for a Harnish bail proceeding. If the attorney for the State requests a Harnish bail proceeding before bail has been set, the judicial officer shall order the defendant held pending a hearing under subsection 2. The attorney for the State may move for a Harnish bail proceeding at any time preconviction. If the attorney for the State moves for a Harnish bail proceeding after bail has been set, the court may hold the defendant pending a hearing under subsection 2 or may continue the defendant's bail.
[1987, c. 758, §20 (NEW.]

2. Harnish bail proceeding. A Harnish bail proceeding must be held within 5 court days of the State's request unless the court, for good cause shown and at the request of either the defendant

or the attorney for the State, grants a continuance. Evidence presented at a Harnish bail proceeding may include testimony, affidavits and other reliable hearsay evidence as permitted by the court. If, after the hearing, the court finds probable cause to believe that the defendant has committed a formerly capital offense, it shall issue an order under subsection 3. If, after the hearing, the court does not find probable cause to believe that the defendant's alleged criminal conduct was formerly a capital offense, it shall issue an order under section 1026 and may amend its bail order as provided under section 1026, subsection 3, paragraph C.
[1995, c. 356, §6 (AMD.]

3. When conditional right has been extinguished at Harnish bail proceeding. The court's finding that probable cause exists to believe that the defendant committed a formerly capital offense extinguishes the defendant's right to have bail set. The court shall make a determination as to whether or not the setting of bail is appropriate as a matter of discretion. The court may set bail unless the State establishes by clear and convincing evidence that:

A. There is a substantial risk that the capital defendant will not appear at the time and place required or will otherwise pose a substantial risk to the integrity of the judicial process; [2007, c. 374, §11 (AMD).]

B. There is a substantial risk that the capital defendant will pose a danger to another or to the community; or [1997, c. 543, §8(AMD).]

C. There is a substantial risk that the capital defendant will commit new criminal conduct. [1997, c. 543, §9 (NEW).]

In exercising its discretion, the court shall consider the factors listed in section 1026. If the court has issued a bail order on the basis of its discretionary authority to set bail in a case involving a formerly capital offense, the court having jurisdiction of the case may modify or deny bail at any time upon motion by the attorney for the State or the defendant or upon its own initiative and upon a showing of changed circumstances or the discovery of new and significant information.

§1028. De novo determination of bail under section 1026

1. By defendant in custody. Any defendant who is in custody as a result of a decision of a bail commissioner acting under section 1026 may file a petition with the Unified Criminal Docket for a de novo determination of bail. The bail commissioner making the decision shall advise the defendant of the right to obtain a de novo determination.

A. If the defendant chooses to have a de novo determination of bail, the defendant must be furnished with a petition and, upon execution of the petition and without the issuance of any writ or other process, the sheriff of the county in which the decision was made shall provide for the transportation of the defendant together with the petition and all papers relevant to the petition or copies of the petition or papers to the court.

If no justice or judge will be available within 48 hours, excluding Saturdays, Sundays and holidays, arrangements must be made for a de novo determination of bail in the nearest county in which a justice or judge is then sitting. The defendant's custodian shall provide transportation to the court as required by this chapter without the issuance of any writ or other process.

If there is no justice or judge available, the defendant must be retained in custody until the petition can be considered. [2015, c. 431, §12 (AMD).]

B. The petition and such other papers as may accompany it must be delivered to the clerk of the Unified Criminal Docket to which the defendant is transported and upon receipt the clerk shall notify the attorney for the State. The court shall review the petition de novo and set bail in any manner authorized by section 1026. [2015, c. 431, §12 (AMD).]

C. Upon receipt of a pro se petition or upon oral or written request of the attorney for the defendant, the clerk shall set a time for hearing and provide oral or written notice to the attorney for the State. The hearing must be scheduled for a time not less than 24 hours nor more than 48 hours after the clerk notifies the attorney for the State. [1997, c. 543, §11 (NEW).]
[2015, c. 431, §12 (AMD) .]

2. By defendant not in custody. Any defendant who is not in custody but who is aggrieved by a decision of a bail commissioner acting under section 1026 as to the amount or conditions of bail set may file a petition with the Unified Criminal Docket for a de novo determination of bail. A justice or judge shall review the petition de novo and set bail in any manner authorized by section 1026. The petition must be considered as scheduled by the clerk.
[2015, c. 431, §12 (AMD) .]

3. No further relief. The de novo determination by a justice or judge under this section is final and no further relief is available.
[2015, c. 431, §12 (AMD) .]

§1028-A. De novo determination of bail set by a justice or judge acting under section 1026

1. By defendant. Any defendant charged with a crime bailable as of right who is aggrieved by a decision of the court made at arraignment or initial appearance as to the amount or conditions of bail set may file a petition with the Unified Criminal Docket for a de novo determination of bail by another justice or judge in accordance with the procedures set forth in Rule 46(d) of the Maine Rules of Unified Criminal Procedure. The court making the initial decision shall advise the defendant of the right to obtain a de novo determination of bail.
[2015, c. 431, §13 (NEW) .]

2. No further relief. The de novo determination by a justice or judge under this section is final and no further relief is available.

§1029. Review of bail under section 1027

1. Petition for review. Any defendant in custody following a Harnish bail proceeding under section 1027 may petition a single Justice of the Supreme Judicial Court for review under this section and the additional procedures set forth in the Maine Rules of Unified Criminal Procedure, Rule 46(e)(1).

A. [2015, c. 431, §14 (RP).]

B. [2015, c. 431, §14 (RP).]
[2015, c. 431, §14 (RPR) .]

2. Standard of review. With respect to the finding of probable cause to believe that the defendant committed a formerly capital offense, the finding of the lower court shall be upheld, unless it is clearly erroneous provided there is an adequate record for purposes of review. With respect to all other issues or with respect to the issue of probable cause when the record is inadequate for review, the review shall be de novo. The parties shall cooperate to expeditiously assemble a record for review.
[1989, c. 147, §3 (AMD) .]

3. Evidence. The evidence consists of the information of record submitted in the Harnish bail proceeding under section 1027 and any additional information the parties may choose to present.
[RR 2009, c. 2, §31 (COR) .]

4. No further relief. The review under this section is final and no further relief is available.

§1030. State's attorney present at certain proceedings; opportunity to present relevant information

Before making a determination as to whether or not to set bail for a defendant charged with murder or a Class A, Class B or Class C crime and before any bail order is reviewed under section 1028 or 1029, the judicial officer shall afford the attorney for the State or a law enforcement officer familiar with the charges the opportunity to present any information relevant to bail considerations. This opportunity is in addition to the availability of a Harnish bail proceeding as otherwise provided in this chapter. [1995, c. 356, §7 (AMD).]

An attorney for the State or a law enforcement officer familiar with the charges must be present in District Court at all proceedings governed by the Maine Rules of Unified Criminal Procedure, Rule 5, at which bail is being set. [2015, c. 431, §15 (AMD).]

present.
[RR 2009, c. 2, §31 (COR) .]

4. No further relief. The review under this section is final and no further relief is available.

§1031. Bail if no indictment

Any defendant charged with a formerly capital offense who has been denied bail in accordance with section 1027 shall have bail set under section 1026 if the defendant is not indicted in the county where the crime is alleged to have been committed at the 2nd regularly scheduled session of the grand jury next after the date of the denial of bail.

§1051. Post-conviction bail

1. Application to presiding judge or justice. After post-conviction, except as provided in this section, a defendant may apply to the judge or justice who presided at the trial for bail pending imposition or execution of sentence or entry of judgment or appeal. If the trial judge or justice is not available, the defendant may apply for bail under this section to another judge or justice of the court in which the defendant was convicted. Post-conviction bail is not available to a defendant convicted of:

A. Murder; [1987, c. 758, §20 (NEW).]

B. Any other formerly capital offense for which preconviction bail was denied under section 1027; or [1995, c. 356, §8 (AMD).]

C. Any crime when the defendant's preconviction bail was revoked and denied under sections 1096 and 1097. [1995, c. 356, §8 (AMD).]

The judge or justice shall hold a hearing on the record on the bail application and shall state in writing or on the record the reasons for denying or granting bail. If bail is granted, the judge or justice shall also state, in writing or on the record, the reasons for the kind and amount of bail set, for any condition of release imposed and for the omission of any condition of release sought by the State.

The judge or justice may enter an order for bail pending appeal before a notice of appeal is filed, but conditioned upon its timely filing.

Every order for post-conviction release of a defendant must include a waiver of extradition by the defendant as well as a condition of bail that the defendant refrain from new criminal conduct and not violate any pending protection from abuse order pursuant to Title 19, section 769, or Title 19-A, section 4011.

[1997, c. 543, §12 (AMD) .]

2. Standards. Except as provided in subsection 4, a defendant may not be admitted to bail under this section unless the judge or justice has probable cause to believe that:

A. There is no substantial risk that the defendant will fail to appear as required and will not otherwise pose a substantial risk to the integrity of the judicial process; [1997, c. 543, §13 (AMD).]

B. There is no substantial risk that the defendant will pose a danger to another or to the community; and [1997, c. 543, §13 (AMD).]

C. There is no substantial risk that the defendant will commit new criminal conduct. [1997, c. 543, §13 (NEW).]

In determining whether to admit a defendant to bail, the judge or justice shall consider the factors relevant to preconviction bail listed in section 1026, as well as the facts proved at trial, the length of the term of imprisonment imposed and any previous unexcused failure to appear as required before any court or the defendant's prior failure to obey an order or judgment of any court, including, but not limited to, violating a protection from abuse order pursuant to Title 19, section 769 or Title 19-A, section 4011.

If the judge or justice decides to set post-conviction bail for a defendant, the judge or justice shall apply the same factors in setting the kind and amount of that bail.

[2007, c. 374, §12 (AMD) .]

2-A. Violation of probation; standards. This subsection governs bail with respect to a motion to revoke probation.

A. A judge or justice may deny or grant bail. [2015, c. 436, §5(NEW).]

B. In determining whether to admit the defendant to bail and, if so, the kind and amount of bail, the judge or justice shall consider the nature and circumstances of the crime for which the defendant was sentenced to probation, the nature and circumstances of the alleged violation and any record of prior violations of probation as well as the factors relevant to the setting of preconviction bail listed in section 1026.[2015, c. 436, §5 (NEW).]

[2015, c. 436, §5 (NEW) .]

3. Conditions of release. Except as provided in subsection 4, the judge or justice may impose, in lieu of or in addition to an appearance or bail bond, any condition considered reasonably necessary to minimize the risk that the defendant may fail to appear as required, may compromise the integrity of the judicial process, may commit new criminal conduct, may fail to comply with conditions of release or may constitute a danger to another person or the community.

[1997, c. 543, §14 (AMD) .]

4. Standards applicable to bail arising out of State's appeal under section 2115-A, subsection 2. If the State initiates an appeal under section 2115-A, subsection 2, the judge or justice shall apply subchapter II to a defendant's application for bail pending that appeal.

[1987, c. 758, §20 (NEW) .]

5. Appeal by defendant. A defendant may appeal to a single Justice of the Supreme Judicial Court a denial of bail, the kind or amount of bail set or the conditions of release imposed by which the defendant is aggrieved. The single justice may not conduct a hearing de novo respecting bail, but shall review the lower court's order. The defendant has the burden of showing that there is no rational basis in the record for the lower court's denial of bail, the kind or amount of bail set or the conditions of release imposed of which the defendant complains. The determination by the single justice is final and no further relief is available.

[1999, c. 731, Pt. ZZZ, §12 (AMD); 1999, c. 731, Pt. ZZZ, §42(AFF) .]

6. Appeal by State. The State may appeal to a single Justice of the Supreme Judicial Court the granting of bail, the kind or amount of bail set or the lower court's failure to impose a condition of release. The single justice may not conduct a hearing de novo respecting bail, but shall review the lower court's order. The State has the burden of showing that there is no rational basis in the record for the lower court's granting of bail, the kind or amount of bail set or the omission of the conditions of which the State complains. The determination by the single justice is final and no further relief is available.

[1999, c. 731, Pt. ZZZ, §12 (AMD); 1999, c. 731, Pt. ZZZ, §42(AFF) .]

7. Revocation of bail.

[1991, c. 393, §1 (RP) .]

7-A. Revocation of post-conviction bail.

[1995, c. 356, §10 (RP) .]

8. Failure to appear; penalty.

[1995, c. 356, §11 (RP) .]

9. Violation of condition of release; penalty.

§1071. Sureties to make statement of property

1. Statement by surety. Any person who offers to act as surety in the Superior Court for any defendant in a criminal prosecution, whether or not the defendant is an appellant from the finding of a Judge of the District Court, is to be admitted to bail to await the action of the grand jury, or is arrested in vacation on a warrant issued on an indictment pending in the Superior Court, may be required to file with the judicial officer a written statement signed and sworn to by the surety describing all real estate owned by the surety within the State with sufficient accuracy to identify it.

A. The statement must provide in detail all encumbrances and the value of the land. The value of the land must be based on the judgment of the surety. [1997, c. 543, §15 (AMD).]

B. The certificate must remain on file with the original papers in the case and a certified copy must be transmitted by the judicial officer taking the bail to the clerk of court before which the defendant is to appear. [1997, c. 543, §15 (AMD).]

C. Upon motion to the court and notice to the defendant, the defendant shall produce and the State has the right to examine all evidence of ownership, valuation and all encumbrances on the land. [1997, c. 543, §15 (AMD).]

[1997, c. 543, §15 (AMD) .]

2. Bail lien required. Any person who offers real estate as surety for the appearance before a court of a defendant charged with murder or a Class A, Class B or Class C crime must file a bail lien with the register of deeds in the county where the real estate lies.

A. If the defendant is to be bailed prior to appearance in a court for the first time, the person offering the real estate shall file with that court a copy of the lien attested by the register of deeds, stating the date of recording and the book and page number at which the lien is recorded, on the next business day after which the real estate is offered.

(1) If a defendant is released from custody, prior to the defendant's first appearance in court, upon a person offering real estate as surety and that person fails to file with the court a duly attested copy of the lien required by this paragraph within the prescribed time limit, the defendant may be taken into custody without the issuance of further process and shall be held as though the surety had not offered real estate as surety. [1987, c. 758, §20 (NEW).]

B. If the defendant is bailed after having appeared in court for the first time, the defendant shall not be released from custody until the person offering real estate has filed with the court, with which the bail is posted, a copy of the lien attested by the register of deeds, stating the date of recording and the book and page number at which the lien is recorded. [1987, c. 758, §20 (NEW).]

C. The person filing the lien is responsible for the fee to be paid to the register of deeds for receiving, recording and indexing the bail lien and for discharge of the bail lien as provided in Title 33, chapter ll, subchapter IV. [1987, c. 758, §20 (NEW).]

D. A bail lien is not required if bail is posted through a nonprofit bail assistance project. [1987, c. 758, §20 (NEW).]

[1987, c. 758, §20 (NEW) .]

3. Limitation on real estate. As used in this chapter, real estate is limited to real property located in the State.

[1987, c. 758, §20 (NEW) .]

§1072. Responsibility of sureties

1. Preconviction. Each surety for a defendant admitted to preconviction bail is responsible for the appearance of the defendant at all times as well as the defendant's compliance with each condition of release, including that the defendant refrain from new criminal conduct, until a verdict or finding or plea of guilty or until the acceptance of a plea of guilty or nolo contendere, unless the surety has sooner terminated the agreement to act as surety and has been relieved of the responsibility in accordance with section 1073.

A preconviction surety is not responsible for the appearance of a defendant after conviction nor for the defendant's compliance with the conditions of release, unless the surety has agreed to act as postconviction surety.

[1997, c. 543, §16 (AMD) .]

2. Post-conviction. Each surety for a defendant admitted to bail after conviction is responsible for the defendant's appearance at all times until the defendant enters into execution of any sentence of imprisonment as well as the defendant's compliance with each condition of

release, including that the defendant refrain from new criminal conduct, unless the surety has sooner terminated the agreement to act as surety and has been relieved of the responsibility in accordance with section 1073.
[1997, c. 543, §16 (AMD) .]

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A preconviction surety is not responsible for the appearance of a defendant after conviction nor for the defendant's compliance with the conditions of release, unless the surety has agreed to act as postconviction surety.
[1997, c. 543, §16 (AMD) .]

2. Post-conviction. Each surety for a defendant admitted to bail after conviction is responsible for the defendant's appearance at all times until the defendant enters into execution of any sentence of imprisonment as well as the defendant's compliance with each condition of release, including that the defendant refrain from new criminal conduct, unless the surety has sooner terminated the agreement to act as surety and has been relieved of the responsibility in accordance with section 1073.
[1997, c. 543, §16 (AMD) .]

§1073. Termination of surety or cash bail agreement

A person who has agreed either to act as surety or to deposit cash bail for a defendant who has been admitted to preconviction bail may terminate the agreement by appearing before the clerk of the court having jurisdiction over the offense with which the defendant is charged and executing a statement under oath terminating the agreement. The statement must include a certification by the person that the person has notified the defendant or the defendant's attorney of the person's intention to terminate the agreement. A person may not terminate a cash bail agreement unless the person has been designated as the owner of all of the cash as required by section 1074. [1995, c. 356, §14 (AMD).]

Upon execution of the statement terminating the agreement, the clerk shall bring the matter to the attention of a judge or justice of the court who, unless new and sufficient sureties have appeared or new and sufficient cash has been deposited, shall order the defendant committed for failure to furnish bail and shall issue a warrant for the defendant's arrest. [1995, c. 356, §14 (AMD).]

The judge or justice may absolve the person of responsibility to pay all or part of the bond or may order the return of cash bail, except that a person may not be absolved of the responsibility to pay all or part of the bond, or receive any cash deposited as bail, if, prior to terminating the

agreement, the defendant has failed to appear as required or the defendant has failed to comply with each condition of release. Nothing in this section may be construed to relieve or release a person of the responsibility for the appearance of the defendant, notwithstanding the termination of the agreement, until the defendant is in the custody of the sheriff of the county in which the case is pending, new or substitute sureties have appeared, new cash bail has been deposited or the defendant has otherwise been admitted to bail. [2015, c. 436, §6 (AMD).]

A person who has agreed either to act as surety or to deposit cash bail for a defendant who has been admitted to post-conviction bail may terminate the agreement by following the procedure set forth in this section. [1995, c. 356, §14 (AMD).]

§1074. Property of defendant and 3rd parties as bail

1. Cash. Whenever cash is deposited as bail to secure the appearance of and conformance to conditions of release by a defendant in a criminal proceeding, either preconviction or post-conviction, the cash is deemed to be the property of the defendant unless, at the time the cash is deposited, the defendant or the person offering the cash as bail designates under oath another person to whom the cash belongs. If a person other than the defendant has been designated as the owner of the cash, it must be returned to that person unless otherwise forfeited or subject to setoff under subsection 3-A. If the defendant is deemed to be the owner of the cash, it must be returned to the defendant unless otherwise forfeited or subject to setoff as provided in this section.
[2013, c. 211, §1 (AMD) .]

1-A. Miscellaneous costs. The Chief Justice of the Supreme Judicial Court is authorized to use General Fund appropriations to cover miscellaneous costs associated with the operation of the account of deposited cash bail.
[2003, c. 673, Pt. P, §1 (NEW) .]

2. Real estate. When a defendant in a criminal proceeding is the owner of real estate and offers that real estate as security for appearance before any court, the defendant must file a bail lien and otherwise comply with the requirements of section 1071 as if the defendant were a surety. A discharge of the bail lien is governed by section 1071, unless the bail has been forfeited or is subject to setoff in accordance with this section.
[1987, c. 758, §20 (NEW) .]

3. Setoff of defendant's property. When a defendant has deposited cash or other property owned by the defendant as bail or has offered real estate owned by the defendant and subject to a bail lien as bail and the cash, other property or real estate has not been forfeited, the court, before ordering the cash or other property returned to the defendant or discharging the real estate bail lien, shall determine whether the cash, other property or real estate or any portion of the cash, other property or real estate is subject to setoff as authorized by this section. The court may order all or a portion of the bail owned by a defendant that has not been forfeited to be first paid and applied to one or more of the following:

A. Any fine, forfeiture, penalty or fee imposed upon a defendant as part of the sentence for conviction of any offense arising out of the criminal proceeding for which the bail has been posted and the sentence for conviction of any offense in an unrelated civil or criminal proceeding; [2003, c. 87, §1 (AMD).]

B. Any amount of restitution the defendant has been ordered to pay as part of the sentence imposed in the proceeding for which bail has been posted and in any unrelated proceeding; [2003, c. 87, §1 (AMD).]

C. Any amount of attorney's fees or other expense authorized by the court at the request of the defendant or attorney and actually paid by the State on behalf of the defendant on the ground that the defendant has been found to be indigent in the proceeding for which bail has been posted and in any unrelated proceeding; and [2003, c. 87, §1(AMD).]

D. Any surcharge imposed by Title 4, section 1057. [1987, c. 758, §20 (NEW).]

The court shall apply any bail collected pursuant to this subsection first to restitution then to attorney's fees and then to fines and surcharges.

[2017, c. 284, Pt. UUUU, §15 (AMD) .]

3-A. Setoff of 3rd party's property. When a person other than the defendant has deposited cash or other property owned by the person as bail on behalf of the defendant or has offered real estate owned by the person and subject to a bail lien as bail on behalf of the defendant and the cash, other property or real estate has not been forfeited, the court, before ordering the cash or other property returned to the person or discharging the real estate bail lien, shall determine whether the cash, other property or real estate or any portion of the cash, other property or real estate is subject to setoff as authorized by this section. The court may order all or a portion of the bail owned by the person that has not been forfeited to be first paid and applied to one or more of the following:

A. Any fine, forfeiture, penalty or fee owed by the person arising out of any civil or criminal proceeding; [2013, c. 211, §1 (NEW).]

B. Any amount of restitution the person has been ordered to pay as part of any court proceeding; [2013, c. 211, §1 (NEW).]

C. Any amount of attorney's fees or other expense authorized by the court at the request of the person or the person's attorney and actually paid by the State on behalf of the person on the ground that the person has been found to be indigent in any proceeding; and [2013, c. 211, §1 (NEW).]

D. Any surcharge imposed by Title 4, section 1057. [2013, c. 211, §1 (NEW).]

The court shall apply any bail collected pursuant to this subsection first to restitution.

[2013, c. 211, §1 (NEW) .]

4. Enforcement orders. If the court determines that bail owned by a defendant or 3rd party should be ordered set off as authorized by this section, the court may issue any appropriate orders considered necessary to enforce the setoff. The orders may include, but are not limited to:

A. A direction to the clerk of courts to pay cash bail directly to a specified person, organization or government; [1987, c. 758, §20(NEW).]

B. An order directed to a public official or the defendant requiring that other property or real estate be sold and the proceeds paid to a specified person, organization or government; and [1987, c. 758, §20 (NEW).]

C. An order requiring the defendant to convey clear and marketable title or other evidence of ownership of interest in real estate or other property to a specified person, organization or government. [1987, c. 758, §20 (NEW).]

§1075. Attorney not to act as surety or deposit cash bail for client

An attorney, while representing a defendant, may not act as surety for or deposit cash bail for the client. [

§1091. Failure to appear; penalty

1. Failure to appear. A defendant who has been admitted to either preconviction or postconviction bail and who, in fact, fails to appear as required is guilty of:

A. A Class E crime if the underlying crime was punishable by a maximum period of imprisonment of less than one year; or [2003, c. 452, Pt. H, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more. [2003, c. 452, Pt. H, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. H, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Affirmative defense. It is an affirmative defense to prosecution under subsection 1 that the failure to appear resulted from just cause.

[2003, c. 452, Pt. H, §2 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

3. Strict liability. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

§1091-A. Failure to report

1. Failure to report after stay of execution. A defendant who has been sentenced but granted a stay of execution to report until a specified date or event and who, in fact, fails to report as ordered is guilty of:

A. A Class E crime if the underlying crime was punishable by a maximum period of imprisonment of less than one year; or [1995, c. 456, §1 (NEW).]

B. A Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more. [1995, c. 456, §1 (NEW).]

[2013, c. 266, §1 (AMD) .]

2. Affirmative defense. It is an affirmative defense to prosecution under subsection 1 that the failure to report resulted from just cause.

[2013, c. 266, §1 (NEW) .]

3. Strict liability. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

§1092. Violation of condition of release

1. Violation of condition of release. A defendant who has been granted preconviction or postconviction bail and who, in fact, violates a condition of release is guilty of:

A. A Class E crime; or [2003, c. 452, Pt. H, §3 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more and the condition of release violated is one specified in section 1026, subsection 3, paragraph A, subparagraph (5), (8), (10-A) or (13). [2005, c. 449, §2 (AMD).]

[2005, c. 449, §2 (AMD) .]

2. Affirmative defense. It is an affirmative defense to prosecution under subsection 1 that the violation resulted from just cause.

[2003, c. 452, Pt. H, §3 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

3. Strict liability. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[2003, c. 452, Pt. H, §3 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

4. Limitations on authority of bail commissioner to set bail. A court may, but a bail commissioner may not, set bail for a defendant granted preconviction or post-conviction bail who has been arrested for an alleged violation of this section if:

A. The condition of release alleged to be violated relates to new criminal conduct for a crime classified as Class C or above or for a Class D or Class E crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12; [2011, c. 341, §3 (NEW).]

B. The underlying crime for which preconviction or post-conviction bail was granted is classified as Class C or above; or [2013, c. 519, §3 (AMD).]

C. The underlying crime for which preconviction or post-conviction bail was granted is a crime involving domestic violence, sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12. [2013, c. 519, §3 (AMD).]

If a bail commissioner does not have sufficient information to determine whether the violation of the condition of release meets the criteria set forth under this subsection, the bail commissioner may not set bail on the violation of the condition of release.

[2013, c. 519, §3 (AMD) .]

§1094. Forfeiture of bail; enforcement

When a defendant who has been admitted to either preconviction or post-conviction bail in a criminal case fails to appear as required or has violated the conditions of release, the court shall declare a forfeiture of the bail. The obligation of the defendant and any sureties may be enforced in such manner as the Supreme Judicial Court shall by rule provide and in accordance with section 224-A and Title 17-A, section 1329, subsection 3-A. The rules adopted by the Supreme Judicial Court must provide for notice to the defendant and any sureties of the consequences of failure to comply with the conditions of bail. [2007, c. 31, §2 (AMD).]

If the obligation of the defendant or any surety has been reduced to judgment pursuant to the Maine Rules of Unified Criminal Procedure, Rule 46, the following provisions apply to the enforcement of the obligation. [2015, c. 431, §16 (AMD).]

1. Execution. The court shall issue an execution of the judgment once the judgment has become final by the expiration of the time for appeal, by dismissal of an appeal or on certificate of decision from the Supreme Judicial Court, unless the court that rendered judgment on the bail obligation has pursuant to rule ordered execution at an earlier time. The execution of the judgment is returnable within one year after issuance.
[1991, c. 393, §4 (NEW) .]

2. Lien on real estate, personal property and motor vehicles. An execution issued under this section creates the lien described in Title 14, section 4651-A, if properly filed according to that section. A filing or recording fee may not be charged for any execution issued under this section.
[1991, c. 393, §4 (NEW) .]

2-A. Violation of unsecured preconviction bail. If the court determines that an offender has violated unsecured preconviction bail and that the violation is not excused, the court shall enter an order of forfeiture of bail, which may not exceed the amount of the unsecured bail previously set. The attorney for the State may take action to collect the amount forfeited using measures authorized for the collection of unpaid restitution under Title 17-A, section 1326-A, including, but not limited to, entering into agreements with the offender for payment over a set period of time not to exceed one year. In order to satisfy an order of forfeiture entered under this subsection, pursuant to Title 36, section 5276-A, the State Tax Assessor may withhold tax refunds owed to an offender.
[2017, c. 221, §1 (NEW) .]

3. Relation back of liens. The effective date of any execution lien created on any property pursuant to this section and Title 14, section 4651-A relates back to the date when a bail lien, as described in section 1071, was first filed or recorded in the proper place for the perfection or attachment of the lien. The relation back applies only to that portion of the bail obligation that the bail lien secured when it was recorded or filed. The remainder of the execution lien and the full amount of any execution lien created when no bail lien was ever recorded or filed, is effective and perfected from the date of the recording or filing of the execution. Any lien created pursuant to this section and Title 14, section 4651-A continues as long as the judgment issued on the bail obligation or any part of the bail obligation, plus costs and interest, has not been paid, discharged or released.
[1991, c. 393, §4 (NEW) .]

4. Enforcement. The lien provided by this section may be enforced by a turnover or sale order pursuant to Title 14, section 3131.
[1991, c. 393, §4 (NEW) .]

5. Application. This section applies to all bail obligations in effect on or after October 1, 1991 and all bail liens recorded as of or after October 1, 1991.

§1094-A. Improper contact after bail has been revoked and denied

A person is guilty of improper contact after bail has been revoked and denied if, while being detained as a result of the person's preconviction or post-conviction bail having been revoked and denied, the person intentionally or knowingly makes direct or indirect contact with a person when that contact was prohibited under a former condition of release. Violation of this section is a Class D crime. [2011, c. 604, §1 (NEW).]

§1094-B. Improper contact with a family or household member prior to the setting of preconviction bail

1. Improper contact. A person is guilty of improper contact with a family or household member prior to the setting of preconviction bail if:

A. The person is being detained as a result of the person's arrest for an offense specified in section 1023, subsection 4, paragraph B-1; [2013, c. 478, §2 (NEW).]

B. Preconviction bail has not been set by a justice or judge; [2013, c. 478, §2 (NEW).]

C. The person is notified, in writing or otherwise, by the county jail staff or a law enforcement officer not to make direct or indirect contact with the specifically identified alleged victim of the offense for which the person is being detained; [2017, c. 66, §1 (AMD).]

D. The alleged victim is a family or household member of the person; and [2013, c. 478, §2 (NEW).]

E. After the notification specified in paragraph C, the person intentionally or knowingly makes direct or indirect contact with the specifically identified alleged victim. [2013, c. 478, §2 (NEW).]

As used in this subsection, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4.

[2017, c. 66, §1 (AMD) .]

2. Penalty. Violation of this section is a Class D crime.

[2013, c. 478, §2 (NEW) .]

§1095. Proceedings for revocation of preconviction bail

1. In general. The attorney for the State, or the court on its own motion, may move for the revocation of a defendant's preconviction bail based upon probable cause to believe that the defendant has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. The motion must set forth the essential facts underlying the alleged violation. If the defendant has not already been arrested pursuant to subsection 2, the clerk of the court shall issue, upon the request of the attorney for the State or by direction of the court, a warrant for the defendant's arrest or, in lieu of a warrant if so directed, a summons ordering the defendant to appear for a court hearing on the alleged violation. The summons must include the signature of the attorney for the State or the court, the time and place of the alleged violation and the time, place and date the person is to appear in court. If the defendant cannot be located with due diligence, a hearing on the motion for revocation must be heard in the defendant's absence.

[1995, c. 356, §19 (NEW) .]

2. Arrest. Prior to the filing of a motion to revoke a defendant's preconviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed

while released on preconviction bail. A defendant under arrest pursuant to this section must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should be modified or whether the defendant should be committed without bail pending the bail revocation hearing. If either the underlying crime or the new criminal conduct alleged is an offense specified in section 1023, subsection 4, paragraph B-1, the judge or justice shall order that the defendant be committed without bail pending the bail revocation hearing, unless the judge or justice makes findings on the record that there are conditions of release that will reasonably ensure that the defendant will not commit new crimes while out on bail, that will reasonably ensure the defendant's appearance at the time and place required and that will ensure the integrity of the judicial process and the safety of others in the community pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.
[2011, c. 640, Pt. A, §3 (AMD) .]

§1096. Grounds for revocation of preconviction bail

A preconviction bail order of a bail commissioner may be revoked by any judge or justice, and a preconviction bail order of a judge or justice may be revoked by any judge or justice of the same court, upon a determination made after notice and opportunity for hearing that: [2005, c. 449, §3(AMD).]

1. Probable cause. Probable cause exists to believe that the defendant has committed a new crime following the setting of preconviction bail; or
[1995, c. 356, §19 (NEW) .]

2. Clear and convincing evidence. Clear and convincing evidence exists that the defendant has failed to appear as required or has violated any other condition of the preconviction bail.
[1995, c. 356, §19 (NEW) .]

§1097. Disposition after revocation of preconviction bail

1. New criminal conduct. If the judge or justice finds that there are conditions of release that will reasonably ensure that the defendant will not continue to commit new crimes while out on bail, the judge or justice shall issue an order under section 1026. If the judicial finding is otherwise, the judge or justice shall issue an order denying bail.
[1997, c. 543, §23 (RPR) .]

2. Appearance of the defendant; ensuring the integrity of the judicial process; ensuring the safety of others in the community. If the judge or justice finds that there are conditions of release that will reasonably ensure the defendant's appearance at the time and place required and ensure the integrity of the judicial process and the safety of others in the community, the judge or justice shall issue an order under section 1026. If the judicial finding is otherwise, the judge or justice shall issue an order denying bail.
[2007, c. 374, §13 (AMD) .]

2-A. Crimes involving domestic violence. If the underlying crime is an offense specified in section 1023, subsection 4, paragraph B-1 and the new conduct found by the court pursuant to

section 1096 involves new allegations of domestic violence or contact with a victim or witness in the underlying case, the judge or justice shall issue an order denying bail, unless the judge or justice makes the findings on the record required by both subsections 1 and 2. The judge or justice shall issue an order denying bail if there has been a previous revocation of preconviction bail pursuant to section 1096.

[2011, c. 640, Pt. A, §4 (NEW) .]

3. Appeal. A defendant in custody as a result of an order issued under this section may appeal to a single Justice of the Supreme Judicial Court. The appeal must be in accordance with the procedures set forth in the Maine Rules of Unified Criminal Procedure, Rule 46(e)(2). The review is limited to a review of the record to determine whether the order was rationally supported by the evidence. The determination by the single justice is final and no further relief is available.

[2015, c. 431, §17 (AMD).]

4. Limitations on bail. When a court has, after revocation on a complaint, ordered the defendant held without bail, the defendant is not entitled to have bail set when the same or more serious charges are brought by indictment or, if waived, by information or complaint, for the same underlying conduct. If different and lesser charges are later brought by the State for the same underlying conduct, the new lesser charges may constitute a change of circumstances pursuant to section 1026, subsection 3, paragraph C.

§1098. Proceedings for revocation of post-conviction bail

1. In general. The attorney for the State, or the court on its own motion, may move for the revocation of a defendant's post-conviction bail based upon probable cause to believe that the defendant has failed to appear as required, has violated a condition of post-conviction bail or has been charged with a crime allegedly committed while released on post-conviction bail. The motion must set forth the essential facts underlying the alleged violation. If the defendant has not already been arrested pursuant to subsection 2, the clerk of the court shall issue, upon the request of the attorney for the State or by the direction of the court, a warrant for the defendant's arrest or, in lieu of a warrant if so directed, a summons ordering the defendant to appear for a court hearing on the alleged violation. The summons must include the signature of the attorney for the State or the court, the time and place of the alleged violation and the time, place and date the person is to appear in court. If the defendant cannot be located with due diligence, a hearing on the motion for revocation must be heard in the defendant's absence.

[1995, c. 356, §19 (NEW).]

2. Arrest. Prior to the filing of a motion to revoke a defendant's post-conviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State, may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, violated a condition of post-conviction bail or been charged with a crime allegedly committed while released on post-conviction bail. A defendant under arrest pursuant to this section must be brought before a judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing post-conviction bail order should be modified or the defendant should be committed without bail pending the bail revocation hearing. A copy of the

motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.
[2011, c. 341, §5 (AMD).]

§1099. Grounds for revocation of post-conviction bail

An order of post-conviction bail entered by a judge or justice may be revoked by the judge or justice or, if that judge or justice is not available, by another judge or justice of the same court, upon determination made after notice and opportunity for hearing that: [1995, c. 356, §19 (NEW).]

1. Crime charged. The defendant has in fact been charged with a crime allegedly committed after post-conviction bail was set;
[1995, c. 356, §19 (NEW).]

2. Failure to appear. The defendant has failed to appear as required or has violated a condition of post-conviction bail as demonstrated by a preponderance of the evidence; or
[1995, c. 356, §19 (NEW).]

3. Appeal for purposes of delay. The defendant's appeal has been taken for the purpose of delay as demonstrated by a preponderance of the evidence.
[1995, c. 356, §19 (NEW).]

§1099-A. Disposition after revocation of post-conviction bail

1. Held without bail. The judge or justice shall order the defendant held without bail unless the judge or justice finds that under the facts of the case it would be unreasonable to do so, in which event the judge or justice shall issue an order under section 1051.
[1995, c. 356, §19 (NEW)]

2. Appeal. A defendant in custody as a result of an order issued under this section may appeal to a single Justice of the Supreme Judicial Court who shall review the revocation pursuant to the procedures set forth in section 1051, subsection 5. The determination by the single justice is final and no further relief is available.

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