

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

—  
H.P. 626 - L.D. 858

**An Act To Limit Reincarceration for Persons on Probation**

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

**Sec. 1. 17-A MRSA §1809, sub-§1**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

**1. Authority of probation officer.** If a probation officer has probable cause to believe that a person on probation has violated a condition of that person's probation, that officer may arrest the person or cause the person to be arrested for the alleged violation. If the probation officer cannot, with due diligence, locate the person, the officer shall file a written notice of this fact with the court that placed the person on probation. Upon the filing of that written notice, the court shall issue a warrant for the arrest of that person. This subsection does not apply to a violation of a condition of probation imposed pursuant to section 1807, subsection 2, paragraph I when there is no alleged violation that constitutes a crime, except as set out in section 1814.

**Sec. 2. 17-A MRSA §1810, sub-§1**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

**1. Authority of probation officer.** If a probation officer has probable cause to believe that a person on probation has violated a condition of probation, that officer may deliver to that person, or cause to be delivered to that person, a summons ordering that person to appear for a court hearing on the alleged violation. This subsection does not apply to a violation of a condition of probation imposed pursuant to section 1807, subsection 2, paragraph I when there is no alleged violation that constitutes a crime, except as set out in section 1814.

**Sec. 3. 17-A MRSA §1812, sub-§4**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

**4. Failure to comply with requirement of probation.** If the alleged violation does not constitute a crime and the court finds by a preponderance of the evidence that the person on probation has inexcusably failed to comply with a requirement imposed as a condition of probation, it may revoke probation. This subsection does not apply to a violation of a

condition of probation imposed pursuant to section 1807, subsection 2, paragraph I when there is no alleged violation that constitutes a crime, except as set out in section 1814.

**Sec. 4. 17-A MRSA §1812, sub-§6**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

**6. Authority of court finding violation of probation.** Upon a finding of a violation of probation, the court may vacate all, part or none of the suspension of execution as to imprisonment or fine specified when probation was granted, considering the nature of the violation and the reasons for granting probation. The remaining portion of the sentence for which suspension of execution is not vacated upon the revocation of probation remains suspended and is subject to revocation at a later date. During the service of that portion of the sentence imposed for which the suspension of execution was vacated upon revocation, the running of the period of probation must be interrupted and resumes again upon release. If the court finds a violation of probation but vacates none of the suspended sentence, the running of the period of probation resumes upon entry of that final disposition. The court may nevertheless revoke probation and vacate the suspension of execution as to the remainder of the suspended sentence or a portion thereof for any criminal conduct committed during the service of that portion of the sentence for which the suspension of execution was vacated upon revocation. This subsection does not apply to a violation of a condition of probation imposed pursuant to section 1807, subsection 2, paragraph I when there is no alleged violation that constitutes a crime, except as set out in section 1814.

**Sec. 5. 17-A MRSA §1814**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

**§1814. Additional conditions in lieu of probation revocation proceedings**

Whenever a probation officer has probable cause to believe that a person under the supervision of that probation officer has violated a condition of probation but the violation does not constitute a crime, the probation officer, instead of commencing a probation revocation proceeding under section 1809 or section 1810, may offer to the person the option of adding one or more of the following conditions to the person's probation:

**1. Participation in public restitution program or treatment program.** The person will participate in a public restitution program or treatment program ~~administered through a correctional facility or county jail~~ in the community; ~~or and~~

~~**2. Residence at correctional facility or county jail.** The person will reside at a correctional facility or county jail for a period of time not to exceed 90 days.~~

**3. Graduated sanction.** The person will comply with a graduated sanction, which may not consist of incarceration.

Notwithstanding other provisions in this subchapter, a probation officer may arrest a person for a violation of a condition imposed pursuant to section 1807, subsection 2, paragraph I and may commence probation revocation proceedings if that officer has probable cause to believe that the person has committed a violation of the condition and determines there is a significant risk to the safety of others or the person that cannot be managed through a noncustodial response.

If the person agrees in writing to the additional conditions under subsection 1 or ~~2~~ 3, the conditions must be implemented. If the person does not agree or if the person fails to

fulfill the additional conditions to the satisfaction of the probation officer, the probation officer may commence probation revocation proceedings under section 1809 or 1810 for the violation that the probation officer had probable cause to believe occurred. If the person fulfills the additional conditions to the satisfaction of the probation officer, the probation officer shall so notify the person in writing and the probation officer may not commence probation revocation proceedings for the violation that the probation officer had probable cause to believe occurred.