



Janet T. Mills
GOVERNOR

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AUGUSTA, MAINE
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May 6, 2022

The 130th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 130th Legislature:

By the Authority conferred by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing L.D. 844, *An Act to Examine and Amend the Conditions of Release and Probation*.

The purposes of bail are to ensure the appearance of a defendant, ensure the integrity of the judicial process, and to ensure the safety of the community pending trial. To achieve this current law sets forth a list of conditions that that may be imposed on a person who is released on pre-trial release (bail) or on post-conviction release (probation). The first line of this bill completely undermines this purpose by focusing solely on removing any restrictions on the defendant's behavior. This provision is unrealistic and unacceptable.

L.D. 844 would eliminate or amend several of the existing conditions. I object to this legislation because some of its changes are unworkable and because the bill would deprive judicial officers of important tools for protecting the public safety and ensuring the appearance of the defendant at trial. These include amendments to the conditions limiting the use of alcohol, requiring participation in treatment programs during probation, and requiring the payment of fines imposed as part of a sentence as a condition of release from jail or prison.

As I stated in my veto of L.D. 1134 last year, judges and bail commissioners should have latitude to place appropriate restrictions on an individual who seeks pre-trial or post-conviction release from jail or prison. For some, that may be a complete bar on use or possession of alcohol. L.D. 844, however, would weaken current law and leave only a restriction on the "excessive use of alcohol." As the Department of Public Safety stated in their testimony opposing this bill, this subjective standard does not provide guidance either to individuals on release, or to law enforcement officers who will be called upon to make judgements about compliance. Alcohol use and abuse is a common contributing factor to criminal activity. Prohibiting its use during periods of release can be an essential means of both protecting public safety and helping individuals to refrain from self-destructive behavior during a time of stress. L.D. 844 would essentially leave it



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to the individuals released on bail or probation to self-monitor for “excessive” drinking, a proposition that is confusing and potentially dangerous.

I also object to changing the law to make probation conditions requiring participation in treatment programs unenforceable. Judges, who have the benefit of a factual record in each case, should have discretion in dispensing the appropriate sentence for a violation of law. This should include determining whether an individual must participate in a treatment program during probation. The purpose of having a condition of probation that requires participation in treatment is to encourage rehabilitation and reduce recidivism. It would be a serious mistake to eliminate the consequence for failing to comply with a probation condition that a person engage in a treatment program. The Department of Corrections appeared before the Judiciary Committee to express their opposition to this provision of the bill because it will prevent the Department from intervening early to help the individual stay on course as they reintegrate into the community.

Finally, judges should retain the authority to require payment of a fine – imposed as part of sentence – as a condition of release. Defendants and prosecutors often resolve cases by having a person take responsibility in the form of a fine, rather than time in jail. Failure to pay a fine could be contempt of court, but it is far preferable to ensure the fine is paid at the time of, or while on release, rather than in a separate, later court action. If the individual is unable to pay the full fine amount immediately, this can be addressed through a payment plan. It would be misguided, however, to prohibit judges from requiring a fine’s payment as a condition of release.

For these reasons I return L.D. 844 unsigned and vetoed and urge the Legislature to sustain this veto.

Sincerely,



Janet T. Mills
Governor



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