

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 862

H.P. 613

House of Representatives, February 16, 2005

### **An Act To Improve the Collection of Restitution and Supervision Fees**

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Submitted by the Department of Corrections pursuant to Joint Rule 204.  
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BLANCHETTE of Bangor.  
Cosponsored by Senator CLUKEY of Aroostook and  
Representatives: DAVIS of Augusta, GERZOFSKY of Brunswick, GROSE of Woolwich,  
HANLEY of Gardiner, PLUMMER of Windham.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 17-A MRSA §1204, sub-§1-A**, as amended by PL 1995, c.  
5 502, Pt. F, §11, is further amended to read:

6 **1-A.** The court shall attach as a condition of probation  
7 that the convicted person pay, through the Department of  
8 Corrections, a supervision fee of between \$10 and \$50 per month,  
9 as determined by the court, for the term of probation.  
10 Notwithstanding the attachment of supervision fee conditions on  
11 more than one sentence, a person on probation on concurrent  
12 sentences is required to pay only one supervision fee. In  
13 determining the amount of the fee, the court shall take into  
14 account the financial resources of the convicted person and the  
15 nature of the burden its payment imposes. A person may not be  
16 sentenced to imprisonment without probation solely for the reason  
17 the person is not able to pay the fee. When a person on  
18 probation fails to pay the supervision fee, the court may revoke  
19 probation as specified in section 1206, unless the person shows  
20 that failure to pay was not attributable to a willful refusal to  
21 pay or to a failure on that person's part to make a good faith  
22 effort to obtain the funds required for the payment. The court,  
23 if it determines that revocation of probation is not warranted,  
24 shall issue a judgment for the total amount of the fee and shall  
25 issue an order attaching a specified portion of money received by  
26 or owed to the person on probation until the total amount of the  
27 fee has been paid. If the person makes this showing, the court  
28 may allow additional time for payment within the remaining period  
29 of probation or reduce the size of the fee to as low as \$10 per  
30 month, but may not revoke the requirement to pay the fee unless  
31 the remaining period of probation is 30 days or less.

32 **Sec. 2. 17-A MRSA §1323, sub-§1**, as amended by PL 1983, c.  
33 793, §1, is further amended to read:

34 **1. Inquiry as to victim's financial loss.** The court shall,  
35 whenever practicable, inquire of a prosecutor, ~~police~~ law  
36 enforcement officer or victim with respect to the extent of the  
37 victim's financial loss, and shall order restitution ~~where~~ when  
38 appropriate. The order for restitution shall designate the amount  
39 of restitution to be paid and the person or persons to whom the  
40 restitution will be paid.

41 **Sec. 3. 17-A MRSA §1326-E** is enacted to read:

42 **§1326-E. Joint and several order**

43 If the victim's financial loss has been caused by more than  
44 one offender, the order must designate that the restitution is to  
45 be paid on a joint and several basis. The agency collecting  
46

2 restitution pursuant to a joint and several order may, after the  
3 full amount of restitution has been collected and disbursed to  
4 the victim, continue to collect payments from an offender who has  
5 not paid an equal share of the restitution and may disburse the  
6 money collected to any other offender who has paid more than an  
7 equal share of the restitution.

8 **Sec. 4. 34-A MRSA §5404, sub-§2, ¶C,** as amended by PL 1995, c.  
9 502, Pt. F, §37, is further amended to read:

10 C. If the officer has probable cause to believe that a  
11 person under the supervision of the department has violated  
12 a condition of that person's probation or parole or  
13 intensive supervision, the officer may arrest that person.;

14 **Sec. 5. 34-A MRSA §5404, sub-§3, ¶E,** as enacted by PL 1995, c.  
15 502, Pt. F, §40, is amended to read:

16 E. Supervise the transition from institutional confinement  
17 for persons residing in a prerelease center if the  
18 commissioner directs; and

19 **Sec. 6. 34-A MRSA §5404, sub-§4,** as enacted by PL 1983, c.  
20 459, §6, is amended to read:

21 **4. Records and reports.** Keep records of each case and make  
22 reports as required; and

23 **Sec. 7. 34-A MRSA §5404, sub-§5,** as amended by PL 1991, c. 27,  
24 is repealed.

## 32 SUMMARY

33 This bill clarifies the obligation of offenders by requiring  
34 the court to be clearer when ordering restitution and, in cases  
35 of joint and several restitution orders, by giving the department  
36 and the district attorneys the ability to continue to collect  
37 from offenders and distribute money back to offenders. The bill  
38 requires that supervision fees be ordered only once for  
39 concurrent crimes. Finally, the bill clarifies issues regarding  
40 disbursement of fines to the courts.  
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