

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

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Legislative Document

No. 1884

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H.P. 1324

House of Representatives, January 3, 2006

### An Act To Improve the Prisoner Telephone System

(EMERGENCY)

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Submitted by the Department of Corrections pursuant to Joint Rule 204.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BLANCHETTE of Bangor.  
Cosponsored by Representative: RECTOR of Thomaston.

2           **Emergency preamble.** Whereas, acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4           Whereas, this legislation reduces the costs of telephone  
6 calls for prisoners and their families through the use of prepaid  
phone accounts; and

8           Whereas, immediate enactment of this legislation is  
10 necessary for the timely implementation of the Department of  
Corrections' telephone system; and

12           Whereas, in the judgment of the Legislature, these facts  
14 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
16 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

20           **Sec. 1. 17-A MRSA §1330, sub-§1,** as amended by PL 1999, c.  
22 469, §2, is further amended to read:

24           **1. Work program; payment of restitution and fines.** A  
26 prisoner who has been ordered to pay restitution or fines may not  
be released pursuant to a work program administered by the  
Department of Corrections under Title 34-A, section 3035, or a  
28 sheriff under Title 30-A, section 1605, or participate in an  
industry program under Title 34-A, section 1403, subsection 9 or  
30 any other program administered by the Department of Corrections  
or a sheriff by which a prisoner is able to generate money,  
32 unless the prisoner consents to pay at least 25% of the  
prisoner's gross weekly wages or other money generated to the  
34 victim or the court until such time as full restitution has been  
made or the fine is paid in full. The chief administrative  
36 officer of the correctional facility where the prisoner is  
incarcerated shall collect and disburse to the victim or victims  
38 that portion of the prisoner's wages or other money generated  
agreed to as payment of restitution. The chief administrative  
40 officer of the correctional facility where the prisoner is  
incarcerated shall also collect and disburse to the court that  
42 portion of the prisoner's wages or other money generated agreed  
to as payment of fines after the restitution is paid in full. If  
44 the victim or victims ordered by the court to receive restitution  
cannot be located, the correctional facility shall inform the  
46 court that ordered restitution. The court shall determine the  
distribution of these funds.

48           **Sec. 2. 17-A MRSA §1330, sub-§2,** as amended by PL 1999, c.  
50 469, §3, is further amended to read:

2           **2. Payment of restitution or fines from other sources.** A  
3 prisoner, other than one addressed by subsection 1, who ~~is-able~~  
4 ~~to-generate~~ receives money, from whatever any source, shall pay  
5 25% of that money to any victim or the court if the court has  
6 ordered that restitution or a fine be paid. The chief  
7 administrative officer of the correctional facility in which the  
8 prisoner is incarcerated shall collect and disburse to the victim  
9 or victims that portion of the prisoner's money ordered as  
10 restitution. The chief administrative officer of the  
11 correctional facility where the prisoner is incarcerated shall  
12 also collect and disburse to the court that portion of the  
13 prisoner's money ordered as fines after the restitution is paid  
14 in full. If the victim or victims ordered by the court to  
15 receive restitution can not be located, the correctional facility  
16 shall inform the court that ordered restitution. The court shall  
17 determine the distribution of these funds. Money received by the  
18 prisoner and directly deposited into a telephone call account  
19 established by the Department of Corrections for the sole purpose  
20 of paying for use of the department's client telephone system is  
21 not subject to this subsection, except that 25% of any money  
22 received by the prisoner and transferred from the telephone call  
23 account to the department's general client account at the time of  
24 the prisoner's discharge or transfer to supervised community  
25 confinement must be collected and disbursed as provided in this  
26 subsection.

27           **Sec. 3. 34-A MRSA §3032, sub-§5-A, ¶A,** as amended by PL 1995,  
28 c. 197, §2, is further amended to read:

29  
30           A. Restitution may be imposed for the purpose of replacing  
31 or repairing property destroyed or damaged by the prisoner  
32 or juvenile while the prisoner or juvenile is at the  
33 institution. When restitution is imposed at a facility, a  
34 prisoner or a juvenile who is subject to that restitution  
35 and who ~~is-able-to-generate~~ receives money from whatever any  
36 source shall pay 25% of that money to the facility where the  
37 damage occurred. The facility shall collect that money and  
38 apply it to defray the cost of replacement or repair of the  
39 items destroyed or damaged. Money received by the prisoner  
40 or juvenile and directly deposited into a telephone call  
41 account established by the department for the sole purpose  
42 of paying for use of the department's client telephone  
43 system is not subject to this paragraph, except that 25% of  
44 any money received by the prisoner or juvenile and  
45 transferred from the telephone call account to the  
46 department's general client account at the time of the  
47 prisoner's or juvenile's discharge or transfer to supervised  
48 community confinement or community reintegration status must  
49 be collected and disbursed as provided in this paragraph.  
50

2           **Sec. 4. 34-A MRSA §3032, sub-§5-A, ¶A-1**, as enacted by PL  
4           1995, c. 197, §2, is amended to read:

6           A-1. Restitution may be imposed for the purpose of paying  
8           the cost of medical care incurred as a result of the conduct  
10           of a prisoner or juvenile while the prisoner or juvenile is  
12           at the institution. When restitution is imposed at a  
14           facility, a prisoner or a juvenile who is subject to that  
16           restitution and who ~~is able to generate~~ receives money from  
18           whatever any source shall pay 25% of that money to the  
20           facility where the medical care was provided. The facility  
22           shall collect that money and apply it to defray the cost of  
24           medical care. Money received by the prisoner or juvenile  
and directly deposited into a telephone call account  
established by the department for the sole purpose of paying  
for use of the department's client telephone system is not  
subject to this paragraph, except that 25% of any money  
received by the prisoner or juvenile and transferred from  
the telephone call account to the department's general  
client account at the time of the prisoner's or juvenile's  
discharge or transfer to supervised community confinement or  
community reintegration status must be collected and  
disbursed as provided in this paragraph.

26           **Sec. 5. 34-A MRSA §3032, sub-§5-B, ¶A**, as enacted by PL 2005,  
28           c. 329, §8, is amended to read:

30           A. When a monetary sanction is imposed at a facility, a  
32           prisoner who is subject to that monetary sanction and who ~~is  
able to generate~~ receives money from any source shall pay  
34           25% of that money to the facility where the monetary  
36           sanction was imposed. The facility shall collect that money  
38           and apply it to defray the cost of holding disciplinary  
40           hearings. Money received by the prisoner and directly  
deposited into a telephone call account established by the  
department for the sole purpose of paying for use of the  
department's client telephone system is not subject to this  
paragraph, except that 25% of any money received by the  
prisoner and transferred from the telephone call account to  
the department's general client account at the time of the  
prisoner's discharge or transfer to supervised community  
confinement must be collected and disbursed as provided in  
this paragraph.

46           **Sec. 6. 34-A MRSA §3039**, as amended by PL 2005, c. 329, §11,  
48           is further amended to read:

50           **§3039. Clients' money**

2 When any client confined in a correctional or detention  
3 facility receives money from any source, including compensation  
4 for work authorized under other sections of Maine law or by a  
5 policy of the department, the money must be deposited in that  
6 facility's-clients' the department's general client account or,  
7 as provided in subsection 4, in the department's telephone call  
8 account. Money deposited in either account must be credited to  
9 the client receiving it.

10 **1. General client account.** The commissioner shall adopt  
11 rules for use of the clients' general client account. These rules  
12 must include a provision allowing a client to remove that  
13 client's money from the clients' general client account and place  
14 it in any type of investment outside the facility chosen by the  
15 client. The ~~chief-administrative-officer~~ commissioner shall keep  
16 a record of all money in the clients' general client account and  
17 is responsible for safekeeping of the client's money while the  
18 client is in the custody of the department and for the delivery  
19 of that money to the client, subject to any collections provided  
20 for by statute or rule, upon the client's discharge or transfer  
21 to supervised community confinement or community reintegration  
22 status.

24 **2. Interest.** Any interest accruing as a result of the  
25 deposit of that money in the clients' general client account may,  
26 after first being used to defray expenses of the account, be  
27 expended by the ~~chief-administrative-officer-of-the-facility~~  
28 commissioner for the general welfare of all clients ~~at--that~~  
29 facility confined in the department's correctional and detention  
30 facilities in accordance with rules adopted by the commissioner.

32 **3. Use.** During the client's confinement, any client may use  
33 that client's money in the clients' general client account by  
34 authorizing the ~~chief--administrative--officer~~ commissioner to  
35 disburse the money in accordance with the rules governing the  
36 clients' general client account.

38 **4. Telephone call account.** The commissioner may establish  
39 a telephone call account for the sole purpose of paying for use  
40 of the department's client telephone system and into which money  
41 received by clients may be deposited. Money received by a client  
42 and clearly designated by the sender for paying for telephone  
43 calls must be directly deposited into the telephone call  
44 account. In addition, a client may remove the client's money  
45 from the general client account and deposit it into the telephone  
46 call account. Once deposited into the telephone call account,  
47 the client may use the money only for paying for the client's  
48 telephone calls. Any money received by a client and not used for  
49 paying for the client's telephone calls must be transferred from  
50 the telephone call account to the department's general client

2 account at the time of the client's discharge or transfer to  
3 supervised community confinement or community reintegration  
4 status and is subject to any collections provided for by statute  
5 or rule prior to delivery to the client. The commissioner shall  
6 keep a record of all money in the telephone call account and is  
7 responsible for safekeeping of the client's money while the  
8 client is in the custody of the department and for the transfer  
9 of that money to the general client account and delivery to the  
10 client as set out in this section.

11 **Sec. 7. 34-A MRSA §3040-A, sub-§1**, as amended by PL 1991, c.  
12 824, Pt. A, §69, is further amended to read:

13 **1. Payment.** Except as provided in subsection 4, if any  
14 client under the control of the department dies, leaving on  
15 deposit in the client's department's general client account and  
16 telephone call account at-a-correctional-or-detention-facility an  
17 amount not exceeding \$1,000, and no personal representative of  
18 the client's estate is appointed, the chief administrative  
19 officer may pay the balance of the client's-account deposits in  
20 the accounts to the surviving spouse or next of kin in accordance  
21 with the Probate Code, Title 18-A, sections 2-101 to 2-114, to  
22 the funeral director having any bill outstanding for the burial  
23 of the decedent or to any other preferred creditor or creditors  
24 who may appear to be entitled thereto, and shall deliver personal  
25 property in the chief administrative officer's custody to the  
26 surviving spouse or next of kin in accordance with the Probate  
27 Code, Title 18-A, sections 2-101 to 2-114.

28 **Sec. 8. 34-A MRSA §3040-A, sub-§4**, as amended by PL 1991, c.  
29 824, Pt. A, §69, is further amended to read:

30 **4. Alternative payment.** Notwithstanding subsection 1, upon  
31 presentation of an affidavit under Title 18-A, section 3-1201,  
32 the chief administrative officer shall pay the balance of any  
33 deposit of a decedent in the client's department's general client  
34 account or telephone call account at-a-correctional-or-detention  
35 facility and deliver the decedent's personal property to the  
36 client's successor under Title 18-A, sections 3-1201 and 3-1202.  
37 The payments under this subsection take precedence over payments  
38 under subsection 1 to the extent of the balance of the deposits  
39 in the clients'--account accounts and the personal property  
40 remaining in the custody of the chief administrative officer at  
41 the time the affidavit is presented.

42 **Sec. 9. 34-A MRSA §3047, sub-§2, ¶A**, as amended by PL 1991, c.  
43 314, §52, is further amended to read:

44 **A.** Has, within the 6 months prior to the date of parole or  
45 discharge, transferred from the clients' department's

