

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

STATE OF MAINE

Inter-Departmental Memorandum Date 11 April 1969

To G. Raymond Nichols, Director, Probation and Parole Dept. Mental Health and Corrections
From Courtland D. Perry, Assistant Att. Gen'l. Dept. Mental Health and Corrections
Subject Remittance to Complainant of Restitution Money in the Hands of Probation-Parole Officer at the Time of Probation Revocation.

SYLLABUS:

A probation parole officer having in his hands at the time of probation revocation sums paid to him by the probationer, pursuant to the Order of the Court that the probationer pay restitution, should appropriately pay over such funds to the Complainant for whose benefit such Order was issued.

FACTS:

A convicted person is placed on probation by order of the Court and as a condition of his probation the Court orders the payment of restitution to the Complainant. The Court following the holding of a probation violation hearing revokes probation. At that time the probation-parole officer assigned to the case has in his possession a portion of the restitution monies ordered to be paid by the Court. The revocation of probation is generally for a violation unrelated to payment of restitution.

QUESTION:

At the time of revocation of probation and sentence of an individual, a condition of whose probation had been the payment of restitution, should the probation-parole officer having a portion of the restitution payments collected by him in his hands pay over such funds to the Complainant for whose benefit restitution was ordered by the Court?

ANSWER:

Yes.

REASON:

Statutes bearing on this issue are as follows:

"The general powers and duties of a probation parole officer are:
....."

- 6. Collection and disbursement of money. To collect and disburse money according to the order of the court having jurisdiction. He shall make a detailed account under oath of all fines received, and shall pay them to the appropriate county treasurer by the 15th day of the month following collection;....."

Title 34, §1502, subsection 6

(over)

11 April 1969

- 2 -

"When a person is convicted of an offense which is not punishable by life imprisonment, the court may continue the case for sentence or impose sentence and suspend its execution.

1. Continue for sentence. The court may continue a case for sentence for not more than 2 years. While the case is continued for sentence, the court may place the respondent on probation.

A. When a person is convicted of an offense which caused damage to another of not more than \$100 for which civil liability has been established or admitted, the court may continue the case for sentence and place the respondent on probation for a definite time, and may order that the respondent make restitution to the person injured....."

Title 34, §1631, subsection 1 A.

It is our opinion that the probation-parole officer ordered by the Court to collect restitution from a probationer under Title 34, §1502, subsection 6 is ordered in effect to act as a collection agent for the Complainant for whose benefit restitution was ordered by the Court. Accepting this premise any funds in the hands of a probation-parole officer at the time of revocation of probation collected by him from the probationer as restitution may be said to be constructively in the hands of the Complainant for whose benefit restitution was ordered. This being the case the funds should appropriately be paid over to the Complainant, and not returned to the probationer whose probation has been revoked, and who has been sentenced and commenced in execution thereof. The Complainant for whose benefit restitution is ordered paid is entitled to receive payments actually placed in the hands of the probation-parole officer while the order for restitution is in effect. The fact of a violation of probation for whatever reason, cannot be said to entitle the probationer to a refund of restitution payments already collected from him by a probation-parole officer.

*Courtland D. Perry*  
Courtland D. Perry  
Assistant Attorney General