

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 642

S. P. 227

In Senate, February 20, 1979

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

Presented by Senator Silverman of Washington.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Require Restitution by a Criminal Offender to his Victim and to
Require Payment of Prosecution and Court Costs.**

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

Sec. 1. 15 MRSA § 1702, 2nd sentence, is amended to read:

In all cases where a fine is imposed he may be sentenced to pay the costs of prosecution ~~except before the District Court in which court he may be sentenced to pay a fine sufficient to cover said costs as provided in Title 4, section 173; and except before a District Court, for violations of Title 28, sections 1055, 1057, 1203 and 1207, and Title 30, chapter 215, subchapter IV, he shall be sentenced to pay such costs.~~

Sec. 2. 15 MRSA § 1901, as repealed and replaced by PL 1975, c. 775, § 2, is repealed.

Sec. 3. 17-A MRSA § 1321, 3rd sentence, as enacted by PL 1977, c. 455, § 3, is amended to read:

It is the purpose of this chapter to ~~encourage~~ **require** the compensation of victims by the person most responsible for the loss incurred by the victim, the offender.

Sec. 4. 17-A MRSA § 1321, 2nd ¶, as enacted by PL 1977, c. 455, § 3, is amended to read:

The Legislature recognizes that a crime is an offense against society as a whole, not only against the victim of the crime and that restitution for victims is therefore ancillary to the central objectives of the criminal law. It intends restitution to be applied only when other purposes of sentencing can be appropriately served. ~~The offense against society is punished by imprisonment or fines. There is also a direct cost to society to convict and imprison offenders that is borne by society as a whole. The Legislature finds and declares that just as the victim of a crime should be recompensed, so should society be repaid. Thus, it is also the purpose of this chapter to require the offender to repay the state's costs in convicting and imprisoning him for his offense. Repayment of these expenses will make clearer to the offender the cost of his actions and ease the burden of society in enforcing its laws.~~

Sec. 5. 17-A MRSA § 1322, sub-§ 1-A is enacted to read:

1-A. Court costs. "Court costs" shall mean those costs of the State and attorney for indictment, conviction and appeal that are actually expended in prosecuting the offender, including an appropriate allocation of the salaries of the prosecuting attorney, judge or justices and their supporting personnel.

Sec. 6. 17-A MRSA § 1322, sub-§ 3-A is enacted to read:

3-A. Imprisonment costs. "Imprisonment costs" shall mean the costs of the State or county due for the actual time of imprisonment of the offender, based on the per diem imprisonment rate established under section 1325-B.

Sec. 7. 17-A MRSA § 1323, as enacted by PL 1977, c. 455, § 3, is amended to read:

§ 1323. Restitution authorized

~~Any~~ Each offender ~~may~~ shall be sentenced to make restitution. Such restitution ~~may~~ shall be in addition to a fine and ~~may~~ shall be a condition of probation or parole. Restitution ~~may~~ shall also be authorized as a condition of any work release program administered under Title 34, including county jail prisoners released for employment.

Sec. 8. 17-A MRSA §§ 1325-A and 1325-B are enacted to read:

§ 1325-A. Reimbursement authorized

Each offender shall be sentenced to make reimbursement to the State for court costs and imprisonment costs. This reimbursement may be in addition to a fine only if the reimbursement amount is reduced by the amount of the fine. Reimbursement shall be a condition of probation, parole or any work release program under Title 34, including county jail prisoners released for employment.

§ 1325-B. Amount of reimbursement

1. Court costs. Reimbursement shall be authorized in an amount that reflects the actual court costs to the State or county for prosecuting the offender. In determining the amount of reimbursement, the following shall be considered:

A. The salaries and actual hours of work of the court's and prosecuting attorney's personnel;

B. Whether the offender or prosecuting attorney is responsible for undue delays or for appeals or new trials; and

C. The financial ability of the offender to pay reimbursement.

2. **Imprisonment costs.** Reimbursement shall also be authorized in an amount that reflects the actual costs for imprisonment. The determination of the imprisonment cost shall be based on the imprisonment rate for the appropriate institution and the actual days of imprisonment. The financial ability of the offender to pay reimbursement shall also be considered.

3. **Imprisonment rate.** Prior to December 1st of each year, the Attorney General shall establish an imprisonment rate for each state institution and each county jail. The rates shall reflect the actual expenses of each institution in that year and shall establish a per diem rate that reflects the actual costs of imprisonment.

Sec. 9. 17-A MRSA § 1326, as enacted by PL 1977, c. 455, § 3, is amended to read:

§ 1326. Time and method of restitution or reimbursement

When restitution or reimbursement is authorized, the time and method of payment or of the performance of the services shall be specified. Monetary compensation which is not to be paid in installments or at a later specified time shall be paid to the clerk of the court having jurisdiction over the offender. In those cases, the clerk shall make the disbursement of **restitution moneys** to the victim or other authorized claimant **and of reimbursement moneys to the Treasurer of State**. All other payments and disbursements shall be made by the appropriate governmental agency or institution having jurisdiction or custody of the offender.

Sec. 10. 17-A MRSA § 1328, as enacted by PL 1977, c. 455, § 3, is amended to read:

§ 1328. Revocation of restitution

1. **Petition.** A convicted person, who has been sentenced to pay restitution or reimbursement and has not ~~inexcusably~~ **inexcusably** defaulted in payment thereof, may at any time petition the court which sentenced him for a revocation of any unpaid portion thereof. If the court finds that the circumstances which warranted the imposition of the restitution or reimbursement have changed, or that it would otherwise be unjust to require payment, the court may revoke the unpaid portion thereof in whole or in part, or modify the time and method of payment.

2. **Final judgment.** If, in any judicial proceeding following conviction, a court issues a final judgment invalidating the conviction, such judgment may include an

order that any or all of a restitution **or reimbursement** payment which the convicted person paid pursuant to the sentence for such conviction be returned to him.

STATEMENT OF FACT

This bill requires convicted offenders to pay the cost of prosecuting and imprisoning them. It also requires those offenders to reimburse their victims.

The time has arrived when society can no longer afford the burdensome increases in taxes caused by an expensive system of criminal prosecutions and imprisonment. This bill is intended to place these costs on the shoulders of those responsible for the criminal acts. It also makes the convicted offenders responsible for paying the damages caused by their criminal acts and directly aiding their victims. The requirements of reimbursement of costs and restitution to victims will also tend to improve the sense of responsibility of the offenders.

The principles of this bill have been long established in the Anglo-American judicial system. The payment of costs has only recently been repealed in Maine. The provisions on restitution are already a part of state law, though this bill strengthens a traditional judicial response to criminal activities.

The bill specifically makes the present optional provisions on victim restitution into mandatory requirements and requires the offender to reimburse the State for court and imprisonment expenses. This bill should result in some savings to the State. Any state expenses for prosecution and imprisonment that are recovered will obviously result in savings of General Fund expenditures.