

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1288

H. P. 1091

House of Representatives, March 13, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Nelson of Portland.

Cosponsors: Representative Prescott of Hampden and Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Formalize the Restitution Process in the Maine District Court.

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

Sec. 1. 4 MRSA § 154-A is enacted to read:

§ 154-A. Restitution Bureau

The Chief Judge shall establish in each division a Restitution Bureau. The Restitution Bureau shall be administered by an executive director, appointed by the Chief Judge and shall serve at his pleasure. The executive director of the Restitution Bureau may employ professional and clerical staff as required to carry out the duties of the bureau. Staff shall be employed in accord with the personnel policies of the Judicial Department as promulgated by the Supreme Judicial Court.

1. Restitution as sanction. Restitution shall be used as a sanction in place of incarceration or in combination with incarceration or probation, or both, wherever, in the judgment of the sitting judge, such sanction is appropriate and practicable. Restitution may also be ordered under the provisions of the Maine Juvenile Code whereby a juvenile disposition may be continued up to one year under a supervised restitution or work program.

2. **Items to be included in restitution program.** The uniform restitution program as adopted by the District Court shall include the documentation of victim loss for use in disposition, the provision of services to victims of crime and the supervision and monitoring of the offender on whom the restitution sanction has been imposed.

3. **Provisions of services.** Restitution program services shall be provided by the staff of the bureau and by such other agencies and personnel as designated by the sitting judge in the order imposing the restitution sanctioned. The services shall be provided in the manner and form designated by rule of the Chief Judge.

4. **Funds.** The Chief Judge and the executive director of the bureau are authorized to receive funds from persons ordered to make restitution, and to disburse such funds directly to victims of crime and for such other purposes as appropriate to carry out the provisions of this section. Funds from federal, state or local government or from any individual, foundation or corporation may be accepted by the bureau and expended for purposes consistent with this section.

5. **Advisory Committee.** In order to continue and to improve its effectiveness within the state juvenile justice system, and to assist in the expansion and continuation of the program throughout the District Court, an Advisory Committee shall be established to provide advice and counsel to the Chief Judge and to the executive director of the bureau. Members of the committee shall serve at the pleasure of the Chief Judge and shall operate in the manner that he designates.

Sec. 2. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82	1982-83
JUDICIAL DEPARTMENT		
Maine District Court		
Personal Services	\$142,500	\$199,500
Capital	0	0
All Other	75,000	119,500
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Total	\$217,500	\$319,000

STATEMENT OF FACT

The purpose of this bill is to implement, on a permanent basis, the restitution process currently in place in the District Courts in York, Cumberland and Androscoggin Counties under "The Restitution Alternative," a project supported by federal funds from the federal Office of Juvenile Justice and Delinquency Prevention.

The victims of crime are, more often than not, victimized twice; first by the

offender and 2nd by the system itself. Once the crime has been reported, the State assumes the role of the victim and unless that victim is needed for purposes of the prosecution, he is thereafter ignored. Some steps to mitigate this have been taken by the victim-witness programs operated by many of the District Attorney offices, whereby immediate victim assistance is provided according to the structure in place and, at the least, the victim is kept advised of the progress of the case and assisted in the required dealings with the system, such as testimony during the trial. No longer is the victim, or witness, simply relegated to the corridor of the court to involuntarily mingle with the offenders and their counsel.

This program goes beyond that level. From the initial contact when the juvenile petition is filed for trial, the Restitution Alternative victim service personnel would advise and counsel the victim about his remedies and options, and, most importantly, assist in the development of full and accurate information on the loss itself which gives the victim a sense of participation in the process and in its outcome. Additionally, they would provide information to the victim on the operation of the juvenile justice system in general and as it relates to their specific case. This tends to engender support for the system based on knowledge heretofore not generally provided to the citizenry. The Restitution Alternative personnel also would provide information to the victim on case progress and ultimate disposition, which includes progress payments of the restitution when such restitution is ordered by the court for management by the project. Even in those cases where the restitution sanction is not imposed, the victim has been represented, has been informed, has had needs identified and, where possible, fulfilled. No other service fills that role.

Perhaps the most important feature of the program is the development of full and accurate information as to the extent and value of the loss. This information is gathered and analyzed, and presented in a uniform fashion according to established guidelines and procedures. It is then furnished to the court, and to counsel, for use in disposition. This then provides the basis for a uniformly applied restitution process throughout the court, not subject to the vagaries of the different jurisdictions. Restitution as a dispositional alternative to incarceration or in combination with incarceration and other sanctions, is neither new nor rare in these days of overcrowded correctional facilities and the extremely high level of property crime. What is new and at the heart of the program is the uniform application of the sanction based upon systematically prepared and presented data.

Supervision of offenders in the payment of restitution, the delivery of direct services to victims, or the delivery of community services in lieu of cash restitution is not new either. Currently, what this program is able to offer is more concentrated supervision which cannot ordinarily be provided by existing services such as probation and parole with their extraordinarily heavy case loads. It does not differ as well in that the Restitution Alternative case management philosophy holds the juvenile directly accountable for his actions with a uniform and structured case management methodology which could be utilized by those service agencies such as Probation and Parole, where deemed appropriate.

The goal of the program is the increased use of the restitution sanction, in lieu of incarceration, applied uniformly throughout the State.

Aside from the obviously desirable objective mitigating disparate sentencing, the real benefit of the program's restitution process is its use as an alternative disposition to incarceration, especially for juvenile offenders. During its first 2 years, including all start-up costs, the average cost per juvenile client served was about \$1,500, compared to annual incarceration costs which range from \$20,000 to over \$30,000 per year per client. With a successful completion rate of about 80%, then the Restitution Alternative clients during the period, resulted in at least 160 not being incarcerated at the Maine Youth Center. Looking at the costs from the victim's side, the Restitution Alternative serviced over 2,000 corporate and individual victims at an average cost of about \$75 per year.

At that cost level, with a total budget of about \$30,000 for that period, our costs would have been more than offset by the savings on incarceration costs ranging from \$320,000 and \$480,000 and, in addition, provided service to over 2,000 victims. Judicial sentencing discretion based upon sound and accurate information together with a uniformly applied process produces an equitable system of justice in which the rights of both the victim and the offender are represented and protected. The program is a means of effecting that standard throughout the State.

The proposed budget would maintain existing staff levels to produce the victim service and loss documentation process statewide. It assumes that supervision would be revested with Probation and Parole with assistance and monitoring by program staff. The budget reflects the federal funding until October 1, 1981 and state funding thereafter. Additional federal funding would be sought and where obtained would reduce the level of General Fund support required.