

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2251

6
7 H.P. 1697

House of Representatives, March 15, 1984

8 Submitted by the Department of Corrections pursuant to Joint Rule 24.
9 Referred to the Committee on Judiciary. Sent up for concurrence and
ordered printed.

EDWIN H. PERT, Clerk

10 Presented by Representative McGowan of Pittsfield.

Cosponsors: Representative Mayo of Thomaston, Representative Allen of
Washington and Senator Hayes of Penobscot.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Amend the Restitution
18 Provisions of the Victims' Bill of Rights.
19

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

22 Sec. 1. 17-A MRSA §1323, sub-§1, as repealed and
23 replaced by PL 1983, c. 352, §3, is amended to read:

24 1. Inquiry as to victim's financial loss. The
25 court shall, whenever practicable, inquire of a pros-
26 ecutor, police officer or ~~victim~~ victims with respect
27 to the extent of the victim's financial loss, and
28 shall order restitution where appropriate. The order
29 for restitution shall designate the amount of resti-
30 tution to be paid and the person or persons to whom
31 the restitution will be paid.

32 Sec. 2. 17-A MRSA §1330, sub-§§1 and 2, as en-
33 acted by PL 1983, c. 352, §4, are repealed and the
34 following enacted in their place:

1 1. Work program; payment of restitution. No
2 prisoner who has been ordered to pay restitution may
3 be released pursuant to a work program administered
4 by the Department of Corrections under Title 34-A,
5 section 3035, or a sheriff under Title 30, section
6 1804, unless he consents to pay at least 25% of his
7 gross weekly wages to the victim until such time as
8 full restitution has been made. The chief admini-
9 strative officer of the correctional facility where
10 the prisoner is incarcerated shall collect and dis-
11 burse to the victim or victims that portion of the
12 prisoner's wages agreed to as payment of restitution.
13 If the victim or victims ordered by the court to re-
14 ceive restitution have died or cannot be located, the
15 correctional facility shall inform the court that or-
16 dered restitution for the court's order for final
17 distribution of the funds.

18 2. Payment of restitution from other sources.
19 Any prisoner, other than one addressed by subsection
20 1, who is able to generate income, from whatever
21 source, shall pay 25% of that income to any victim if
22 the court has ordered that restitution be paid. The
23 correctional facility in which the prisoner is incar-
24 cerated shall collect and disburse to the victim or
25 victims that portion of the prisoner's income ordered
26 as restitution. The correctional facilities are to
27 inform the court if the victims to whom restitution
28 should be paid cannot be located and for the court to
29 make a determination to the distribution of these
30 funds.

31 STATEMENT OF FACT

32 Currently the Revised Statutes, Title 17-A, sec-
33 tion 1330, subsection 1, requires a correctional fa-
34 facility to determine whether or not an inmate should
35 pay restitution. Since the staff of the correctional
36 facility where a prisoner is incarcerated did not
37 participate in the prosecution of the prisoner, it
38 has no ability to determine the extent of a victim's
39 financial loss. Such determination should be made by
40 the court at the time of sentencing. Section 1 of
41 this bill places that responsibility on the court.

1 Section 2 is consistent with current law in that
2 it requires consent to restitution as a prerequisite
3 for release on any work program. Rather than requiring
4 the correctional facility to ask the court to determine
5 what percentage of gross wages is to be paid
6 as restitution, this bill mandates the payment of at
7 least 25% of gross wages; this is consistent with the
8 Revised Statutes, section 1330, subsection 2 of the
9 current provision which requires incarcerated prisoners
10 to pay 25% of any income to a victim. Finally,
11 section 2 of this bill requires correctional facilities
12 to inform the court if the victim to whom restitution
13 should be paid cannot be located and for the
14 court to order where these funds are to go.

15 Current law requires any prisoner who generates
16 income to pay 25% of that income to a victim; unfortunately,
17 current law provides no mechanism for enforcing that
18 payment. Section 2 of this bill places the responsibility
19 for disbursing 25% of a prisoner's
20 income to the victim.

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