

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 860

6
7 H.P. 590

House of Representatives, February 28, 1985

8 On Motion of Representative Kane of S. Portland, referred to the
9 Committee on Judiciary. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Seavey of Kennebunkport.

11 Cosponsored by Senator Maybury of Penobscot and Senator Dutremble
of York.

12 STATE OF MAINE
13

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

17 AN ACT to Prevent Criminals from Profiting as
18 an Indirect Result of their Crime.
19

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

22 17-A MRSA §1330-A is enacted to read:

23 §1330-A. Distribution of money received as result of
24 commission of crime

25 1. Money to be paid to Attorney General; escrow
26 account. Every person, firm, corporation, partner-
27 ship, association or other legal entity contracting
28 with any person, or the representative or assignee of
29 any person, accused or convicted of a crime in this
30 State, with respect to the reenactment of that crime,
31 by way of a movie, book, magazine article, tape re-
32 recording, phonograph record, radio or television pre-
33 sentation, live entertainment of any kind, or from
34 the expression of the accused or convicted person's
35 thoughts, feelings, opinions or emotions regarding

1 that crime, shall submit a copy of that contract to
2 the Office of the Attorney General and pay over to
3 the Office of the Attorney General any moneys which
4 would otherwise, by the terms of that contract, be
5 owing to the person accused or convicted of the crime
6 or his representatives. The Attorney General shall
7 deposit that money in an escrow account for the bene-
8 fit of and payable to any victim or the legal repre-
9 sentative of any victim of crimes committed by:

10 A. The convicted person; or

11 B. The accused person, but only if the accused
12 person is eventually convicted of the crime.

13 No payment may be made to a victim unless, within 5
14 years of the date of the establishment of the escrow
15 account, the victim or his representative brings a
16 civil action in a court of competent jurisdiction and
17 recovers a money judgment against the convicted or
18 accused person or his representative.

19 2. Notice. The Attorney General, at least once
20 every 6 months for 5 years from the date he receives
21 moneys pursuant to subsection 1, shall publish a leg-
22 al notice in newspapers of general circulation in
23 the county in which the crime was committed and in
24 counties contiguous to that county advising any vic-
25 tim that escrow moneys are available to satisfy money
26 judgments pursuant to this section. The Attorney
27 General may provide for additional notice as he deems
28 necessary.

29 3. Acquittal; return of money. Upon dismissal of
30 charges or acquittal of any accused person, the Attor-
31 ney General shall immediately pay over to that person
32 the moneys in the escrow account established on be-
33 half of that person.

34 4. Limitation. Upon a showing by any convicted
35 person that 5 years have elapsed from the establish-
36 ment of the escrow account and that no actions are
37 pending against that person pursuant to this section,
38 the Attorney General shall immediately pay over any
39 moneys in the escrow account to that person or his
40 legal representative.

1 5. Insanity. For purposes of this section, a
2 person found not guilty pursuant to section 39 shall
3 be deemed to be a convicted person.

4 6. Competent to stand trial; interpleader.
5 When, pursuant to Title 15, section 101, it is found
6 that a person accused of a crime is not competent to
7 stand trial, the Attorney General shall petition the
8 court to determine disposition of the escrow account.

9 7. Period not to run until account established.
10 Notwithstanding any other provision of law, the
11 5-year period provided for in subsection 1 shall not
12 begin to run until an escrow account has been estab-
13 lished.

14 8. Payment to convicted or accused person. Not-
15 withstanding this section, the Attorney General shall
16 make payments from an escrow account to any person
17 accused or convicted of a crime upon the order of a
18 court of competent jurisdiction, after a showing by
19 that person that the moneys shall be used for the ex-
20 clusive purpose of retaining legal representation, at
21 any stage of the criminal proceedings against that
22 person, including the appeals process. The Attorney
23 General may, in his discretion and after notice to
24 the victims of the crime, make payments from the es-
25 crow account to a representative of any person ac-
26 cused or convicted of a crime for the necessary ex-
27 penditures of the production of the moneys paid into the
28 escrow account, provided the Attorney General finds
29 that those payments would be in the best interests of
30 the victims of the crime and would not be contrary to
31 public policy. The total of all payments made from
32 the escrow account under this subsection shall not
33 exceed 1/5 of the total moneys paid into the escrow
34 account and available to satisfy civil judgments ob-
35 tained by the victims of the crime.

36 9. Actions taken to defeat purpose of section.
37 Any action taken by any person accused or convicted
38 of a crime, whether by way of execution of a power of
39 attorney, creation of corporate entities or other-
40 wise, to defeat the purpose of this section shall be
41 null and void as against the public policy of this
42 State.

1 10. Priority of payments. Notwithstanding any
2 other provision of law, claims on moneys in the es-
3 crow account have the following priorities:

4 A. Payments ordered by the Attorney General or a
5 court pursuant to subsection 8 of this section;

6 B. Civil judgments of the victims of the crime;

7 C. Other judgment creditors or persons claiming
8 moneys through the person accused or convicted of
9 a crime who present lawful claims, including
10 state or local government agencies; and

11 D. The person accused or convicted of the crime.

12 No payment may be made out of the escrow account
13 where that payment would be in derogation of claims,
14 either presented or pending, entitled to a higher
15 priority under this subsection. The Attorney General
16 may bring an action for a declaratory judgment where
17 he cannot determine the priority of claims and the
18 proper disposition of the escrow account.

19 Moneys in the escrow account shall not be subject to
20 execution, levy, attachment or lien except in accord-
21 ance with the priority of claims established in this
22 subsection.

23 11. Control over money. The Attorney General
24 shall have exclusive jurisdiction and control, as es-
25 crow agent, over any moneys subject to this section.
26 No distribution of moneys in the escrow accounts may
27 be made except by determination and order of the At-
28 torney General, pursuant to this section. Any party
29 aggrieved by a final determination and order of the
30 Attorney General, under this section, may seek judi-
31 cial review of that decision.

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STATEMENT OF FACT

The purpose of this bill is to restrict criminals from prospering financially from crime through movies, books, etc. which recreate the story of the crime. This bill places any money earned by a convicted person or accused person in an escrow account and the funds be paid to victims of the crime who have won a money judgment against the person.

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