

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (New Draft of H.P. 297, L.D. 386)
3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 1371

9 H.P. 952

House of Representatives, April 24, 1985

10 Reported by Representative Taylor from the Committee on Human
11 Resources and printed under Joint Rule 2. Original bill sponsored by
12 Representative Cooper of Windham. Cosponsored by Senator Chalmers of
Knox, Representative Drinkwater of Belfast and Representative Kane of So.
Portland.

EDWIN H. PERT, Clerk

13

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FIVE
18

19 AN ACT to Include Restitution as a
20 Disciplinary Consequence to Inmate
21 Misconduct at State Correctional
22 Facilities.
23

24 Emergency preamble. Whereas, Acts of the Legis-
25 lature do not become effective until 90 days after
26 adjournment unless enacted as emergencies; and

27 Whereas, inmates or juveniles at penal institu-
28 tions may exhibit behavior which results in the dam-
29 age or destruction of property; and

30 Whereas, it is an important part of their punish-
31 ment and rehabilitation for them to assume responsi-
32 bility for their actions; and

33 Whereas, immediate legislation is necessary to
34 authorize restitution for these damages; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 30 MRSA §1804, sub-§5-A is enacted to
10 read:

11 5-A. Restitution disbursements. Notwithstanding
12 subsection 5, the wages or salaries of employed
13 prisoners, employment income of self-employed prison-
14 ers or income from any other source shall be dis-
15 bursed by the sheriff in accordance with any restitu-
16 tion authorized by section 1807. These disbursements
17 shall not be authorized until any disbursements re-
18 quired by subsection 5, paragraphs A to D, have been
19 made.

20 Sec. 2. 30 MRSA §1807 is enacted to read:

21 §1807. Damage to property by inmates; restitution

22 Restitution may be imposed for the purpose of re-
23 placing or repairing property destroyed or damaged by
24 the inmate or juvenile while at the jail. When res-
25 titution is imposed, any inmate or juvenile subject
26 to that punishment and who is able to generate income
27 from whatever source shall pay 25% of that income to
28 the county jail where the damage occurred. The jail
29 shall collect that income and apply it to defray the
30 cost of replacement or repair of the items destroyed
31 or damaged. The inmate or juvenile may also be or-
32 dered to labor at any lawful work to provide restitu-
33 tion. Any payments made for support of dependents
34 which is required by the Department of Human Services
35 shall not be available for restitution payments.

36 Any inmate or juvenile who is transferred to an-
37 other facility remains liable for any restitution au-
38 thorized under this chapter. The facility receiving
39 the inmate or juvenile shall collect the restitution
40 and transfer it to the facility where the damage oc-
41 curring.

1 Sec. 3. 34-A MRSA §3032, sub-§5, as enacted by
2 PL 1983, c. 459, §6, is amended to read:

3 5. Specific facilities. Punishment at specific
4 correctional facilities is governed as follows.

5 A. Punishment at all correctional facilities,
6 except the Maine Youth Center, may consist of
7 warnings, loss of privileges, restitution, con-
8 finement to a cell, segregation or a combination
9 of these.

10 B. Punishment at the Maine Youth Center may con-
11 sist of seclusion, in accordance with section
12 3809, warnings, restitution and loss of privi-
13 leges.

14 Sec. 4. 34-A MRSA §3032, sub-§5-A is enacted to
15 read:

16 5-A. Restitution. The imposition of restitution
17 at all correctional facilities shall be subject to
18 the following conditions.

19 A. Restitution may be imposed for the purpose of
20 replacing or repairing property destroyed or dam-
21 aged by the inmate or juvenile while he is at the
22 institution. When restitution is imposed as a
23 punishment at a correctional facility, any pris-
24 oner, or any juvenile committed to the Maine
25 Youth Center or who is committed to the custody
26 of the Department of Corrections and placed at
27 the Maine Youth Center, who is subject to that
28 punishment and who is able to generate income
29 from whatever source, shall pay 25% of that in-
30 come to the facility where the damage occurred.
31 The facility shall collect that income and apply
32 it to defray the cost of replacement or repair of
33 the items destroyed or damaged. Restitution
34 shall not be authorized if the imposition of that
35 punishment would create an excessive financial
36 hardship, as determined by the department, on the
37 dependents of the offender. Any payments made
38 for the support of the dependents which is re-
39 quired by the Department of Human Services shall
40 not be available for restitution payments.

1 B. The inmate or juvenile may also be ordered to
2 labor at any lawful work to provide restitution.

3 C. An inmate or juvenile who is transferred to
4 another facility remains liable for any restitu-
5 tion authorized under this chapter. The facility
6 receiving the inmate or juvenile shall collect
7 the restitution and transfer it to the facility
8 where the damage occurred.

9 Sec. 5. 34-A MRSA §3032, sub-§6, as enacted by
10 PL 1983, c. 459, §6, is amended to read:

11 6. Impartial hearing. If the punishment may af-
12 fect the term of commitment, sentence or parole eli-
13 gibility or may involve restitution or segregation,
14 the chief administrative officer of the facility
15 shall, before imposing punishment, provide an impar-
16 tial hearing at which the committed offender has the
17 following rights.

18 A. He is entitled to be informed in writing of
19 the specific nature of his alleged misconduct.

20 B. He is entitled to the right to be present.

21 C. He is entitled to present evidence on his own
22 behalf.

23 D. He is entitled to call one or more witnesses,
24 which right may not be unreasonably withheld or
25 restricted.

26 E. He is entitled to question any witness who
27 testifies at the hearing, which right may not be
28 unreasonably withheld or restricted.

29 F. He is entitled to be represented by counsel
30 substitute as prescribed in the rules.

31 G. A record shall be maintained of all disci-
32 plinary complaints, hearings, proceedings and
33 dispositions.

34 H. He is entitled to appeal the final disposi-
35 tion, before imposition of punishment, to the
36 chief administrative officer of the correctional
37 facility.

1 I. If, at any stage of the proceedings, he is
2 cleared of the charges in a complaint, or the
3 complaint is withdrawn, all documentation relat-
4 ing to the complaint shall be expunged.

5 **Emergency clause.** In view of the emergency cited
6 in the preamble, this Act shall take effect when ap-
7 proved.

8 STATEMENT OF FACT

9 This new draft adds an emergency preamble and
10 clause to avoid the possibility that inmates will
11 transfer their assets before the effective date of
12 this Act to avoid their responsibilities to pay for
13 property they damage. It also clarifies some of the
14 language in the original bill.

15 In addition, this new draft allows county jails
16 to obtain restitution from inmates in the jails for
17 property damages caused by the inmates. It also adds
18 a provision to ensure that payments for the support
19 of dependents, when required by the Department of Hu-
20 man Services, will not be available for restitution.

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