

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1091

H.P. 817 House of Representatives, April 2, 1987
Reference to the Committee on Legal Affairs suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative SEAVEY of Kennebunkport.
Cosponsored by Representative MARSANO of Belfast,
Senators GAUVREAU of Androscoggin and BRANNIGAN of Cumberland.

STATE OF MAINE

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

1 AN ACT to Prevent Criminals from Profiting as
2 an Indirect Result of Their Crime.
3

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

6 17-A MRSA §1330-A is enacted to read:

7 §1330-A. Distribution of money received as result of
8 commission of crime

9 1. Money to be paid to Attorney General; escrow
10 account. Every person, firm, corporation, partner-
11 ship, association or other legal entity contracting
12 with any person, or the representative or assignee of
13 any person, accused or convicted of a crime in this
14 State, with respect to the reenactment of that crime,
15 by way of a movie, book, magazine article, tape re-

1 ording, phonograph record, radio or television pre-
2 sentation, live entertainment of any kind or from the
3 expression of the accused or convicted person's
4 thoughts, feelings, opinions or emotions regarding
5 that crime, shall submit a copy of that contract to
6 the Department of the Attorney General and pay over
7 to the department any money which, by the terms of
8 that contract, would otherwise be owing to the person
9 accused or convicted of the crime or his representa-
10 tives. The Attorney General shall deposit that money
11 in an escrow account for the benefit of and payable
12 to any victim or the legal representative of any vic-
13 tim of crimes committed by:

14 A. The convicted person; or

15 B. The accused person, but only if the accused
16 person is eventually convicted of the crime.

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

23 2. Notice. The Attorney General, at least once
24 every 6 months for 5 years from the date he receives
25 money pursuant to subsection 1, shall publish a legal
26 notice in newspapers of general circulation in the
27 county in which the crime was committed and in coun-
28 ties contiguous to that county advising any victim
29 that escrow money is available to satisfy money judg-
30 ments pursuant to this section. The Attorney General
31 may provide for additional notice as he deems neces-
32 sary.

33 3. Acquittal; return of money. Upon dismissal of
34 charges or acquittal of any accused person, the Attor-
35 ney General shall immediately pay over to that person
36 the money in the escrow account established on behalf
37 of that person.

38 4. Limitation. Upon a showing by any convicted
39 person that 5 years have elapsed from the establish-
40 ment of the escrow account and that no actions are
41 pending against that person pursuant to this section,

1 the Attorney General shall immediately pay over any
2 money in the escrow account to that person or his legal
3 representative.

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

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

12 7. Period not to run until account established.
13 Notwithstanding any other provision of law, the
14 5-year period provided for in subsection 1 shall not
15 begin to run until an escrow account has been estab-
16 lished.

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

39 9. Actions taken to defeat purpose of section.
40 Any action taken by any person accused or convicted
41 of a crime, whether by way of execution of a power of
42 attorney, creation of corporate entities or other-

1 wise, to defeat the purpose of this section shall be
2 void as against the public policy of this State.

3 10. Priority of payments. Notwithstanding any
4 other provision of law, claims on money in the escrow
5 account have the following priorities:

6 A. Payments ordered by the Attorney General or a
7 court pursuant to subsection 8;

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

9 C. Other judgment creditors or persons claiming
10 money through the person accused or convicted of
11 a crime who present lawful claims, including
12 State Government or local government agencies;
13 and

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

15 No payment may be made out of the escrow account when
16 that payment would be in derogation of claims, either
17 presented or pending, entitled to a higher priority
18 under this subsection. The Attorney General may
19 bring an action for a declaratory judgment when he
20 cannot determine the priority of claims and the prop-
21 er disposition of the escrow account.

22 Money in the escrow account shall not be subject to
23 execution, levy, attachment or lien, except in ac-
24 cordance with the priority of claims established in
25 this subsection.

26 11. Control over money. The Attorney General
27 shall have exclusive jurisdiction and control, as es-
28 crow agent, over any money subject to this section.
29 No distribution of money in the escrow account may be
30 made except by determination and order of the Attor-
31 ney General, pursuant to this section. Any party ag-
32 grieved by a final determination and order of the At-
33 torney General, under this section, may seek judicial
34 review of that decision.

1

STATEMENT OF FACT

2 The purpose of this bill is to restrict criminals
3 from prospering financially from crime through
4 movies, books or other forms of entertainment which
5 recreate the story of the crime. This bill places
6 any money earned by a convicted person or accused
7 person in an escrow account and the funds be paid to
8 victims of the crime who have won a money judgment
9 against the person.

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