

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 420

H.P. 306

House of Representatives, February 23, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HEPBURN of Skowhegan.

Cosponsored by Representative SEAVEY of Kennebunkport.

STATE OF MAINE

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

**An Act to Confiscate Assets Garnered by Convicted Felons Through
Criminal Acts.**



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

3 17-A MRSA §1330-A is enacted to read:

5 §1330-A. Distribution of money received as result of commission
7 of crime

9 1. Definition. As used in this section, unless the context
11 otherwise indicates, "victim" means a human being who suffers
13 personal injury, death or economic loss as a result of a crime or
15 as a result of the good faith effort of any person to prevent a
17 crime.

19 2. Money to be paid to Attorney General; escrow account.
21 Every person, firm, corporation, partnership, association or
23 other legal entity contracting with any person, or the
25 representative or assignee of any person, accused or convicted of
27 a crime in this State, with respect to the reenactment of that
29 crime by way of a movie, book, magazine article, tape recording,
31 phonograph record, radio or television presentation, live
33 entertainment of any kind or from the expression of the accused
35 or convicted person's thoughts, feelings, opinions or emotions
37 regarding that crime, shall submit a copy of that contract to the
39 Department of the Attorney General and pay to the department any
41 money which, by the terms of that contract, would otherwise be
43 owing to the person accused or convicted of the crime or the
45 accused person's representatives. The Attorney General shall
47 deposit that money in an escrow account for the benefit of and
49 payable to any victim or the legal representative of any victim
51 of crimes committed by:

A. The convicted person; or

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

No payment may be made to a victim unless, within 5 years of the
date of the establishment of the escrow account or within 5 years
from the date of release of the convicted person from
imprisonment, whichever is later, the victim or the victim's
representative brings a civil action in a court of competent
jurisdiction and recovers a money judgment against the convicted
or accused person or the accused person's representative.

Prior to paying any money to the Department of the Attorney
General under this subsection, any person, firm, corporation,
partnership, association or other legal entity contracting as
described in this subsection may submit a copy of the contract to
the Attorney General for a determination of whether the contract
is covered by this subsection.

1 3. Notice. The Attorney General, at least once every 6
3 months for 5 years from the date the Attorney General receives
5 money pursuant to subsection 2, or for 5 years from the date of
7 release of the convicted person from imprisonment, whichever is
9 later, shall publish a legal notice in newspapers of general
11 circulation in the county in which the crime was committed and in
13 counties contiguous to that county advising any victim that
15 escrow money is available to satisfy money judgments pursuant to
17 this section. The Attorney General may provide for additional
19 notice as the Attorney General determines necessary. The costs
21 of publishing and providing notice under this subsection shall be
23 paid out of the escrow money.

125 4. Acquittal; return of money. Upon dismissal of charges
127 or acquittal of any accused person, the Attorney General shall
129 immediately pay to that person the money in the escrow account
131 established on behalf of that person.

133 5. Limitation. Upon a showing by any convicted person that
135 5 years have elapsed from the establishment of the escrow account
137 or from the date of the convicted person's release from
139 imprisonment, whichever is later, and that no actions are pending
141 against that person pursuant to this section, the Attorney
143 General shall immediately pay any money in the escrow account to
145 that person or the person's legal representative.

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

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

161 8. Period not to run until account established.
163 Notwithstanding any other provision of law, the first 5-year
165 period provided for in subsection 2 shall not begin to run until
167 an escrow account has been established.

169 9. Payment to convicted or accused person. Notwithstanding
171 this section, the Attorney General shall make payments from an
173 escrow account to any person accused or convicted of a crime upon
175 the order of a court of competent jurisdiction, after a showing
177 by that person that the money shall be used for the exclusive
179 purpose of retaining legal representation, at any stage of the
181 criminal proceedings against that person, including the appeals
183 process. The Attorney General, in the Attorney General's
185 discretion and after notice to the victims of the crime, may make
187 payments from the escrow account to a representative of any
189 person accused or convicted of a crime for the necessary expenses
191 of the production of the money paid into the escrow account,

1 provided that the Attorney General finds that those payments
2 would be in the best interests of the victims of the crime and
3 would not be contrary to public policy. The total of all
4 payments made from the escrow account under this subsection shall
5 not exceed 1/5 of the total money paid into the escrow account
6 and available to satisfy civil judgments obtained by the victims
7 of the crime.

9 10. Actions taken to defeat purpose of section. Any action
10 taken by any person accused or convicted of a crime, whether by
11 way of execution of a power of attorney, creation of corporate
12 entities or otherwise, to defeat the purpose of this section
13 shall be void as against the public policy of this State.

15 11. Priority of payments. Notwithstanding any other
16 provision of law, claims on money in the escrow account have the
17 following priorities:

19 A. Payments ordered by the Attorney General or a court
20 pursuant to subsection 9;

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

22 C. Other judgment creditors or persons claiming money
23 through the person accused or convicted of a crime who
24 present lawful claims, including State Government or local
25 government agencies; and

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

27 No payment may be made out of the escrow account when that
28 payment would be in derogation of claims, either presented or
29 pending, entitled to a higher priority under this subsection.
30 The Attorney General may bring an action for a declaratory
31 judgment when the Attorney General cannot determine the priority
32 of claims and the proper disposition of the escrow account.

33 Money in the escrow account shall not be subject to execution,
34 levy, attachment or lien, except in accordance with the priority
35 of claims established in this subsection.

36 12. Control over money. The Attorney General shall have
37 exclusive jurisdiction and control, as escrow agent, over any
38 money subject to this section. No distribution of money in the
39 escrow account may be made except by determination and order of
40 the Attorney General, pursuant to this section. Any party
41 aggrieved by a final determination and order of the Attorney
42 General, under this section, may seek judicial review of that
43 decision.

44 13. Penalty. Any person, firm, corporation, partnership,
45 association or other legal entity who fails to pay money as

1 required by subsection 2 and any person who takes an action
2 described in subsection 10 commits a civil violation for which a
3 forfeiture not to exceed \$1,000 may be adjudged.

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STATEMENT OF FACT

9 The purpose of this bill is to restrict criminals from
10 prospering financially from crime through movies, books or other
11 forms of entertainment which recreate the story of the crime.
12 This bill places any money earned by a convicted person or
13 accused person in an escrow account and the funds shall be paid
14 to victims of the crime who have won a money judgment against the
15 person.