

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 474

H.P. 355

House of Representatives, February 27, 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 SEAVEY of Kennebunkport.

Cosponsored by Senator BRANNIGAN of Cumberland, Representative MARSANO of Belfast and Senator DUTREMBLE of York.

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STATE OF MAINE

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

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**An Act to Prevent Criminals from Profiting as an Indirect Result of  
Their Crime.**

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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 a result of  
7 commission 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 over to the department  
41 any money which, by the terms of that contract, would otherwise  
43 be owing to the person accused or convicted of the crime or that  
45 person's representatives. The Attorney General shall deposit  
47 that money in an escrow account for the benefit of and payable to  
49 any victim or the legal representative of any victim of crimes  
51 committed by:

31 A. The convicted person; or

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

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

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

51 3. Notice. The Attorney General, at least once every 6  
53 months for 5 years from the date the Attorney General receives

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

11  
12 4. Acquittal; return of money. Upon dismissal of charges  
13 or acquittal of any accused person, the Attorney General shall  
14 immediately pay over to that person the money in the escrow  
15 account established on behalf of that person.

16  
17 5. Limitation. Upon a showing by any convicted person that  
18 5 years have elapsed from the establishment of the escrow account  
19 or from the date of the convicted person's release from  
20 imprisonment, whichever is later, and that no actions are pending  
21 against that person pursuant to this section, the Attorney  
22 General shall immediately pay over any money in the escrow  
23 account to that person or that person's legal representative.

24  
25 6. Insanity. For purposes of this section, a person found  
26 not guilty pursuant to section 39 shall be deemed to be a  
27 convicted person.

28  
29 7. Competent to stand trial; interpleader. When, pursuant  
30 to Title 15, section 101-B, it is found that a person accused of  
31 a crime is not competent to stand trial, the Attorney General  
32 shall petition the court to determine disposition of the escrow  
33 account.

34  
35 8. Period not to run until account established. Notwithstanding any other provision of law, the first 5-year  
36 period provided for in subsection 2 shall not begin to run until  
37 an escrow account has been established.

38  
39  
40 9. Payment to convicted or accused person. Notwithstanding  
41 this section, the Attorney General shall make payments from an  
42 escrow account to any person accused or convicted of a crime upon  
43 the order of a court of competent jurisdiction, after a showing  
44 by that person that the money shall be used for the exclusive  
45 purpose of retaining legal representation at any stage of the  
46 criminal proceedings against that person, including the appeals  
47 process. The Attorney General, at the Attorney General's  
48 discretion and after notice to the victims of the crime, may make  
49 payments from the escrow account to a representative of any  
50 person accused or convicted of a crime for the necessary expenses  
51 of the production of the money paid into the escrow account,  
provided that the Attorney General finds that those payments

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

7  
8 10. Actions taken to defeat purpose of section. Any action  
9 taken by any person accused or convicted of a crime, whether by  
10 way of execution of a power of attorney, creation of corporate  
11 entities or otherwise, to defeat the purpose of this section  
12 shall be void as against the public policy of this State.

13  
14 11. Priority of payments. Notwithstanding any other  
15 provision of law, claims on money in the escrow account have the  
16 following priorities:

17  
18 A. Payments ordered by the Attorney General or a court  
19 pursuant to subsection 9;

20  
21 B. Civil judgments of the victims of the crime;

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

27  
28 D. The person accused or convicted of the crime.

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

36  
37 Money in the escrow account shall not be subject to execution,  
38 levy, attachment or lien, except in accordance with the priority  
39 of claims established in this subsection.

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

49  
50 13. Penalty. Any person, firm, corporation, partnership,  
51 association or other legal entity which fails to pay over money  
52 as required by subsection 2, and any person who takes an action

1 described in subsection 10, commits a civil violation for which a  
3 forfeiture not to exceed \$1,000 may be adjudged.

5  
7 **STATEMENT OF FACT**

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