

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 355

H.P. 277

House of Representatives, February 8, 1993

**An Act to Require Restitution Rather Than Incarceration for Certain Crimes.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MARSHALL of Eliot.  
Cosponsored by Representatives: CAMERON of Rumford, CAMPBELL of Holden,  
COFFMAN of Old Town, FARNUM of South Berwick, LEMONT of Kittery, MURPHY of  
Berwick.

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

Sec. 1. 17-A MRSA §1159 is enacted to read:

§1159. Sentencing for crimes of theft

Notwithstanding other provisions of this Part, sentences for crimes of theft under chapter 15 are governed by section 1325-A.

Sec. 2. 17-A MRSA §1323, sub-§1, as amended by PL 1983, c. 793, §1, is further amended to read:

1. Inquiry as to victim's financial loss. The court shall, whenever practicable, inquire of a prosecutor, police officer or victim with respect to the extent of the victim's financial loss, and shall order restitution where when appropriate. The order for restitution shall must designate the amount of restitution to be paid and the person or persons to whom the restitution will be paid. The court shall order restitution if required by section 1325-A.

Sec. 3. 17-A MRSA §1325, sub-§4 is enacted to read:

4. Theft crimes. This section does not apply to orders of restitution required by section 1325-A.

Sec. 4. 17-A MRSA §1325-A is enacted to read:

§1325-A. Restitution in certain crimes of theft

If a person is convicted of a crime of theft under chapter 15, the court shall impose a sentence of restitution according to the provisions of this section.

1. Scope. The court shall order restitution under this section if the crime of theft does not involve bodily injury or the use of a weapon.

2. Amount of restitution. If restitution is ordered under this section, the amount of restitution required is determined as follows.

A. If the person is convicted of theft of income-producing property, the court shall order restitution equal to 4 times the value of the property.

B. If the person is convicted of theft of property that is not income-producing property, the court shall order restitution equal to 2 times the value of the property.

C. If the person is convicted of theft of property and a portion of the property is income-producing property and a

2        portion of the property is not income-producing property,  
3        the amount of restitution must be calculated separately for  
4        each type of property and the court shall order restitution  
5        equal to the total.

6        3. Additional sentence. In addition to restitution ordered  
7        under this section, a court may order the offender to pay a fine  
8        equal to the costs of prosecution of the offender.

10       4. Disposition of amounts received in restitution.  
11       Restitution ordered under this section must be paid as provided  
12       in section 1326.

14       5. Default. If an offender defaults on an order of  
15       restitution under this section, the offender must be ordered  
16       returned to court as provided in section 1329. The court may  
17       order any further sentence that does not exceed the allowable  
18       sentence for the original crime.

20       6. Exceptions. This section does not apply to a crime of  
21       theft that involves bodily injury or use of a weapon. If the  
22       crime of theft involves bodily injury or the use of a weapon, the  
23       provisions of this section do not apply and sentencing is  
24       governed by the other provisions of this Part.

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## STATEMENT OF FACT

30       This bill requires the imposition of restitution instead of  
31       incarceration for crimes of theft that do not involve bodily  
32       injury or the use of a weapon. Restitution is equal to 4 times  
33       the value of income-producing property and 2 times the value of  
34       property that is not income-producing property. If there is a  
35       default in payment, the offender will be returned to court for  
36       further disposition.