

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 291

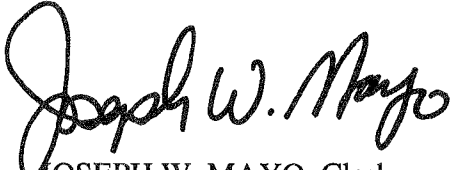
H.P. 227

House of Representatives, January 21, 1997

An Act Concerning Defendants' Ability to Attack Orders of Restitution.

Reported by Representative POVICH for the Criminal Law Advisory Commission under the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Joint Standing Committee on Criminal Justice suggested and printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

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

4 **Sec. 1. 17-A MRSA §1330-A is enacted to read:**

6 **§1330-A. Waiver of issue of excessiveness**

8 If a defendant at the time of sentencing has consented to
10 the imposition by the sentencing court of a specific amount of
12 restitution, the defendant is thereafter precluded from seeking
14 to attack the legality or propriety of the amount of restitution
16 ordered if that amount does not exceed the specific amount
18 consented to by the defendant.

20 **SUMMARY**

22 This bill builds upon current case law that allows a court
to satisfy itself as to a defendant's ability to pay a specific
amount of restitution by relying upon a defendant's consent to
pay that amount. See generally, State v. Dragon, 521 A.2d 704
(Me. 1987); State v. LaCase, 512 A.2d 315-316 (Me. 1986). It
forecloses a defendant under these circumstances from seeking
thereafter to have that restitution order vacated as excessive.