

# MAINE STATE LEGISLATURE

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DATE: April 7, 1999

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**CRIMINAL JUSTICE**

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**STATE OF MAINE  
SENATE  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT " A " to S.P. 268, L.D. 761, Bill, "An Act to Improve the Collection of Restitution"

Amend the bill in section 1 in that part designated "**§1326.**" in the last line (page 1, line 31 in L.D.) by inserting after the following: "possible." the following: 'This section is repealed July 1, 2002.'

Further amend the bill by striking out all of sections 2 to 5 and inserting in their place the following:

'**Sec. 2. 17-A MRSA §§1326-A to 1326-C** are enacted to read:

**§1326-A. Time and method of restitution**

When restitution is authorized, the time and method of payment or of the performance of the services must be specified. Except when the offender is placed on probation, monetary compensation may be ordered paid to the office of the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the offender is placed on probation, the compensation may be ordered paid to the Department of Corrections. The state agency receiving the restitution shall deposit any money received in the account maintained by the Treasurer of State for deposit of state agency funds, from which funds are daily transferred to an investment account and invested. Interest accrued on that money is the property of and accrues to the State for deposit in the General Fund. The agency receiving the restitution shall make the disbursement to the victim or other authorized claimant as soon as possible after the agency receives the money. If the compensation is paid to the Department of Corrections, the office of the prosecuting attorney who prosecuted the case may request

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2 that the Commissioner of Corrections direct that the compensation  
3 be forwarded to the office of the prosecuting attorney, which  
4 shall make the disbursement to the victim or other authorized  
5 claimant as soon as possible. This section takes effect July 1,  
6 2002.

7 **§1326-B. Income withholding order**

8  
9 1. When restitution is required of an offender who will not  
10 be commencing service of a period of institutional confinement  
11 and who is employed, the court shall, at the time of ordering  
12 restitution, enter a separate order for income withholding. The  
13 withholding order must direct the employer to deduct from all  
14 income due and payable to the offender an amount required by the  
15 court to meet the offender's restitution obligation. The  
16 withholding order must include an instruction to the employer  
17 that upon receipt of a copy of the withholding order the employer  
18 shall:

19 A. Immediately begin to withhold the offender's income when  
20 the offender is usually paid;

21  
22 B. Send each amount withheld to the agency to which  
23 restitution has been ordered to be paid at the address set  
24 forth in the order within 7 business days of the  
25 withholding; and

26  
27 C. Identify each amount sent to the agency by indicating  
28 the court's docket number.

29  
30 2. The income withholding order is effective as long as the  
31 order for restitution upon which it is based is effective or  
32 until further order of the court.

33 **§1326-C. Deceased victims**

34  
35 An offender's obligation to pay restitution is not affected  
36 by the death of the victim to whom the restitution is due. The  
37 money collected as restitution must be forwarded to the estate of  
38 the victim.

39  
40  
41 **Sec. 3. 17-A MRSA §1330, sub-§1, as amended by PL 1997, c.**  
42 **358, §1, is further amended to read:**

43  
44  
45 **1. Work program; payment of restitution and fines. No A**  
46 **prisoner who has been ordered to pay restitution or fines may not**  
47 **be released pursuant to a work program administered by the**  
48 **Department of Corrections under Title 34-A, section 3035, or a**  
49 **sheriff under Title 30-A, section 1605, unless the prisoner**  
50 **consents to pay at least 25% of the prisoner's gross weekly wages**  
51 **to the victim or the court until such time as full restitution**  
52 **has been made or the fine is paid in full. The chief**

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administrative officer of the correctional facility where the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's wages agreed to as payment of restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court that portion of the prisoner's wages agreed to as payment of fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution have-died-or cannot be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds.

Sec. 4. 17-A MRSA §1330, sub-§2, as amended by PL 1997, c. 358, §2, is further amended to read:

2. Payment of restitution or fines from other sources. Any A prisoner, other than one addressed by subsection 1, who is able to generate money, from whatever source, shall pay 25% of that money to any victim or the court if the court has ordered that restitution or a fine be paid. The chief administrative officer of the correctional facility in which the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's money ordered as restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court that portion of the prisoner's money ordered as fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution have-died-or can not be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds.

Sec. 5. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
<b>38 CORRECTIONS, DEPARTMENT OF</b>		
<b>40 Administration - Corrections</b>		
42           Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$30,100	\$41,308
44           All Other	6,000	1,947
46           Provides funds for an Account		
48           Clerk I position to		
administer the collection of		
restitution.		
50		
<b>52 DEPARTMENT OF CORRECTIONS</b>		
<b>TOTAL</b>	<u>\$36,100</u>	<u>\$43,255'</u>

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2 Further amend the bill by inserting at the end before the  
summary the following:  
4

6 **FISCAL NOTE**

8

	1999-00	2000-01
10 <b>APPROPRIATIONS/ALLOCATIONS</b>		
12 Other Funds	\$36,100	\$43,255
14 <b>REVENUES</b>		
16 General Fund	(\$37,500)	(\$50,000)
18 Other Funds	37,500	50,000

20 This bill will deposit interest accrued on restitution  
22 payments into a dedicated revenue account within the Department  
of Corrections through the end of fiscal year 2001-02. The  
24 reduction of General Fund revenue from interest earnings is  
estimated to be \$37,500 in fiscal year 1999-00 and \$50,000  
26 annually in fiscal years 2000-01 and 2001-02, respectively.  
Dedicated revenue to the Department of Corrections will increase  
28 by the same amounts.

30 This bill includes Other Special Revenue funds allocations  
of \$36,100 and \$43,255 in fiscal years 1999-00 and 2000-01,  
32 respectively, to authorize the expenditure of this additional  
dedicated revenue to the Department of Corrections to be used for  
34 an additional Account Clerk I position to administer the  
collection of restitution.

36 The Judicial Department will incur some minor additional  
38 costs to process additional forms. These costs can be absorbed  
within the department's existing budgeted resources.'

40

42 **SUMMARY**

44 This amendment removes the provision that would allow  
restitution of missing and deceased victims to be placed in the  
46 Victims' Compensation Fund and replaces it with a provision that  
requires the restitution of deceased victims be forwarded to the  
48 estate of the victim. The amendment limits to June 30, 2002 the  
period of time that interest on restitution may be placed in the  
50 Other Special Revenue Account within the Department of  
Corrections and that the position to administer the collection of

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2      restitution is funded. The amendment also adds a fiscal note to  
the bill.

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