

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 761

S.P. 268

In Senate, January 28, 1999

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### **An Act to Improve the Collection of Restitution.**

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Submitted by the Department of Corrections pursuant to Joint Rule 204.  
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MURRAY of Penobscot.  
Cosponsored by Representatives: McALEVEY of Waterboro, PEAVEY of Woolwich.

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

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4       **Sec. 1. 17-A MRSA §1326**, as amended by PL 1995, c. 502, Pt. F, §16, is further amended to read:

6       **§1326. Time and method of restitution**

8           When restitution is authorized, the time and method of  
10       payment or of the performance of the services must be specified.  
12       Except when the offender is placed on probation, monetary  
14       compensation may be ordered paid to the office of the prosecuting  
16       attorney who is prosecuting the case or to the clerk of the  
18       court. If the offender is placed on probation, the compensation  
20       may be ordered paid to the Department of Corrections. The state  
22       agency receiving the restitution shall deposit any money received  
24       in the account maintained by the Treasurer of State for deposit  
26       of state agency funds, from which funds are daily transferred to  
28       an investment account and invested. Interest accrued on that  
30       money ~~is the property of and accrues to the State for deposit in~~  
32       ~~the General Fund~~ collected by the state agency must be deposited  
34       into the Other Special Revenue - Administration account within  
36       the Department of Corrections. The agency receiving the  
38       restitution shall make the disbursement to the victim or other  
40       authorized claimant as soon as possible after the agency receives  
42       the money. If the compensation is paid to the Department of  
44       Corrections, the office of the prosecuting attorney who  
46       prosecuted the case may request that the Commissioner of  
48       Corrections direct that the compensation be forwarded to the  
50       office of the prosecuting attorney, which shall make the  
      disbursement to the victim or other authorized claimant as soon  
      as possible.

32           **Sec. 2. 17-A MRSA §§1326-A and 1326-B** are enacted to read:

34       **§1326-A. Income withholding order**

36           **1. Restitution required.** When restitution is required of  
38       an offender who will not be commencing service of a period of  
40       institutional confinement and who is employed, the court shall,  
42       at the time of ordering restitution, enter a separate order for  
44       income withholding. The withholding order must direct the  
46       employer to deduct from all income due and payable to the  
48       offender an amount required by the court to meet the offender's  
50       restitution obligation. The withholding order must include an  
      instruction to the employer that upon receipt of a copy of the  
      withholding order the employer shall:

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

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

6           C. Identify each amount sent to the agency by indicating  
8           the court's docket number.

10          2. Income withholding order. The income withholding order  
12          is effective as long as the order for restitution upon which it  
            is based is effective or until further order of the court.

14          §1326-B. Missing victims

16          If the victim or victims ordered by the court to receive  
18          restitution have died or cannot be located, the offender's  
20          obligation to pay the restitution ordered may not be affected.  
22          The money collected as restitution must be deposited in the  
            Victims' Compensation Fund established in Title 5, chapter  
            316-A. A victim or victims who are subsequently located may  
            apply to the Victims' Compensation Board for disbursement of  
            restitution deposited in the fund no later than one year after  
            the deposit.

24          Sec. 3. 17-A MRSA §1330, sub-§1, as amended by PL 1997, c.  
26          358, §1, is further amended to read:

28          1. Work program; payment of restitution and fines. No  
30          prisoner who has been ordered to pay restitution or fines may be  
32          released pursuant to a work program administered by the  
34          Department of Corrections under Title 34-A, section 3035, or a  
36          sheriff under Title 30-A, section 1605, unless the prisoner  
38          consents to pay at least 25% of the prisoner's gross weekly wages  
40          to the victim or the court until such time as full restitution  
42          has been made or the fine is paid in full. The chief  
44          administrative officer of the correctional facility where the  
46          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.~~

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

4           **2. Payment of restitution or fines from other sources.** Any  
5 prisoner, other than one addressed by subsection 1, who is able  
6 to generate money, from whatever source, shall pay 25% of that  
7 money to any victim or the court if the court has ordered that  
8 restitution or a fine be paid. The chief administrative officer  
9 of the correctional facility in which the prisoner is  
10 incarcerated shall collect and disburse to the victim or victims  
11 that portion of the prisoner's money ordered as restitution. The  
12 chief administrative officer of the correctional facility where  
13 the prisoner is incarcerated shall also collect and disburse to  
14 the court that portion of the prisoner's money ordered as fines  
15 after the restitution is paid in full. ~~If the victim or victims~~  
16 ~~ordered by the court to receive restitution have died or can not~~  
17 ~~be located, the correctional facility shall inform the court that~~  
18 ~~ordered restitution. The court shall determine the distribution~~  
19 ~~of these funds.~~

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

	1999-00	2000-01	2001-02
22 <b>CORRECTIONS, DEPARTMENT OF</b>			
23 <b>Administration</b>			
24       Positions	(1.0)	(1.0)	(1.0)
25       Personal Services	\$40,105	\$41,308	\$42,547
26       All Other	6,215	1,947	2,005
27       Provides funds to administer 28       the collection of restitution.			
29 <b>DEPARTMENT OF CORRECTIONS</b>			
30 <b>TOTAL</b>	<u>\$46,320</u>	<u>\$43,255</u>	<u>\$44,553</u>

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