

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1709

H.P. 1216

House of Representatives, December 20, 2005

**An Act To Provide for the Issuance of a Bench Warrant upon
Failure To Appear for a Hearing on Nonpayment of a County Jail
Reimbursement Fee**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 14, 2005. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CROSTHWAITE of Ellsworth.
Cosponsored by Senator RAYE of Washington and
Representatives: COLLINS of Wells, DUGAY of Cherryfield, TRAHAN of Waldoboro,
Senators: COURTNEY of York, ROSEN of Hancock.

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

4 **Sec. 1. 17-A MRSA §1341**, as amended by PL 1997, c. 88, §1, is
5 further amended to read:

6 **§1341. Assessment of reimbursement fee against prisoners**

7 **1. Assessment.** When a person is sentenced to incarceration
8 in a county jail, the sentencing court shall consider and may
9 assess as part of the sentence a reimbursement fee to help defray
10 the expenses of the offender's room and board. The fee may not
11 exceed the cost of incarcerating the offender or \$80 per day,
12 whichever is less. Any reimbursement fee assessed must be
13 collected by the county treasurer of the county in which the
14 offender is incarcerated, paid into the treasury of that county
15 and credited to the county responsible for paying for the
16 incarceration of the offender.

17 **2. Evidence.** The court, in determining whether a
18 reimbursement fee as set out in subsection 1 is to be assessed
19 and in establishing the amount of that fee, shall consider
20 evidence relevant to the offender's ability to pay that fee,
21 including, but not limited to, the factors set forth in section
22 1325, subsection 2, paragraph D, subparagraphs (1) to (5). The
23 court shall not consider as evidence the following:

24 A. Joint ownership, if any, that the offender may have in
25 real property;

26 B. Joint ownership, if any, that the offender may have in
27 any assets, earnings or other sources of income; and

28 C. The income, assets, earnings or other property, both
29 real and personal, owned by the offender's spouse or family.

30 **3. Amount of fee.** After considering all relevant evidence
31 on the issue of the offender's ability to pay under subsection 2,
32 the court may enter, as part of its sentence, a reimbursement fee
33 that ~~shall~~ must be paid by the offender for ~~his~~ incarceration in
34 the county jail. The fee ~~shall~~ must bear a reasonable
35 relationship to the offender's ability to pay. Upon petition by
36 the offender, the amount may be modified to reflect any changes
37 in the financial status of the offender.

38 **4. Timing of fee.** If an offender is sentenced to pay a
39 reimbursement fee, the court may grant permission for the payment
40 to be made within a specified time or in specified installments.
41 If such permission is not contained in the sentence, the
42 reimbursement fee is payable immediately.

2 5. Default. An offender who has been sentenced to pay a
3 reimbursement fee and who has defaulted in payment of the fee
4 must be returned to court for further disposition.

5 A probation officer who knows of a default in payment of a
6 reimbursement fee by an offender shall report the default to the
7 office of the attorney for the State. An attorney for the State
8 who knows of a default in payment of a reimbursement fee by an
9 offender shall report the default to the court. If the
10 reimbursement fee was a condition of probation, the attorney for
11 the State may file a motion to enforce payment of the
12 reimbursement fee or, with the written consent of the probation
13 officer, a motion to revoke probation under section 1205. If the
14 reimbursement fee was not a condition of probation, the attorney
15 for the State may file a motion to enforce payment of the
16 reimbursement fee.

17 6. Motion to enforce payment of reimbursement fee. Either
18 the attorney for the State or the court may initiate a motion to
19 enforce payment of a reimbursement fee. Notification for the
20 hearing on the motion must be sent by regular mail to the
21 offender's last known address. If the offender does not appear
22 for the hearing after proper notification has been sent, the
23 court may issue a bench warrant.

24 A. Unless the offender shows by a preponderance of the
25 evidence that the default was not attributable to an
26 intentional or knowing refusal to obey the court's order or
27 to a failure on the offender's part to make a good-faith
28 effort to obtain the funds required to make payment, the
29 court shall find that the default was unexcused and may
30 commit the offender to the custody of the sheriff until all
31 or a specified part of the jail reimbursement fee is paid.
32 The length of confinement in a county jail for unexcused
33 default must be specified in the court's order and may not
34 exceed one day for every \$5 of unpaid jail reimbursement fee
35 or 6 months, whichever is shorter. An offender committed
36 for nonpayment of a reimbursement fee is given credit toward
37 the payment of a reimbursement fee for each day of
38 confinement that the offender is in custody, at the rate
39 specified in the court's order. The offender is also given
40 credit for each day that the offender has been detained as
41 the result of an arrest warrant issued pursuant to this
42 section. An offender is responsible for paying any
43 reimbursement fee remaining after receiving credit for
44 confinement and detention. A default on the remaining
45 reimbursement fee is also governed by this section.

