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H.P. 1372

House of Representatives, December 12, 2007

No. 1938

An Act To Allow Community Service in Lieu of Fines

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

Received by the Clerk of the House on December 11, 2007. 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. Mac Jarland

MILLICENT M. MacFARLAND Clerk

Presented by Representative CLEARY of Houlton.

Cosponsored by Representatives: BLANCHARD of Old Town, BRAUTIGAM of Falmouth, CONNOR of Kennebunk, CONOVER of Oakland, SIMPSON of Auburn.

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

2 Sec. 1. 17-A MRSA §1303-B, as enacted by PL 1999, c. 367, §4, is amended to 3 read:

4 §1303-B. Modification of payment of fine

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5 A convicted person who has been sentenced to pay a fine shall move the court for a 6 modification of time or method of payment to avoid a default. The court may modify its 7 prior order to allow additional time for payment or to reduce the amount of each 8 installment, order community service work pursuant to chapter 54-C or, when the court 9 reasonably determines that the fine is uncollectible due to death or disability of the 10 convicted person, reduce or discharge completely the remaining balance of the fine.

Sec. 2. 17-A MRSA §1304, sub-§3, ¶A, as enacted by PL 1999, c. 367, §5, is
 repealed and the following enacted in its place:

A. Unless the offender shows by a preponderance of the evidence that the default
 was not attributable to an intentional or knowing refusal to obey the court's order or
 to a failure on the offender's part to make a good-faith effort to obtain the funds
 required for the payment, the court shall find that the default was unexcused and may:

17 (1) Commit the offender to the custody of the sheriff until all or a specified part 18 of the fine is paid. The length of confinement in a county jail for unexcused 19 default must be specified in the court's order and may not exceed one day for 20 every \$5 of unpaid fine or 6 months, whichever is shorter. An offender 21 committed for nonpayment of a fine pursuant to this subparagraph is given credit 22 toward the payment of the fine for each day of confinement that the offender is in 23 custody, at the rate specified in the court's order. The offender is also given credit 24 for each day that the offender is detained as the result of an arrest warrant issued 25 pursuant to this section. An offender is responsible for paying any fine remaining 26 after receiving credit for confinement and detention. A default on the remaining 27 fine is also governed by this section;

- 28 (2) Order the offender to perform a specified number of hours of community
 29 service work pursuant to chapter 54-C; or
- 30 (3) Submit the unpaid fine to a collection agency pursuant to subsection 4.

Sec. 3. 17-A MRSA §1304, sub-§3, ¶B, as enacted by PL 1999, c. 367, §5, is
 repealed and the following enacted in its place:

- 33 B. If it appears that the default is excusable, the court may:
- 34 (1) Give the offender additional time for payment;
- 35 (2) Reduce the amount of each installment;
- 36 (3) Order the offender to perform a specified number of hours of community
 37 service work pursuant to chapter 54-C; or

(4) In cases when the court reasonably determines that the fine is uncollectible due to death or disability of the offender, reduce or discharge completely the unpaid balance of the fine.

4 Sec. 4. 17-A MRSA §1304, sub-§3, ¶C, as enacted by PL 1999, c. 367, §5, is 5 amended to read:

6 C. If the court commits a person to the custody of the sheriff for nonpayment of a 7 fine <u>pursuant to subsection 3</u>, <u>paragraph A</u>, <u>subparagraph (1)</u>, the court may 8 authorize, at the time of its order only, participation of the person in a project under 9 Title 30-A, section 1606 with the agreement of the sheriff of the county jail where the 10 person is committed. The person must be given credit according to Title 30-A, 11 section 1606, subsection 2.

Sec. 5. 17-A MRSA §1304, sub-§3, ¶D, as enacted by PL 1999, c. 367, §5, is
 amended to read:

D. The confinement ordered under this subsection <u>3</u>, paragraph <u>A</u>, subparagraph (1)
 must be nonconcurrent with any judgment of conviction involving a term of
 imprisonment.

Sec. 6. 17-A MRSA §1304, sub-§4, as repealed and replaced by PL 1999, c. 367,
 §5, is amended to read:

19 4. Upon any default, execution may be levied and other measures authorized for the collection of unpaid civil judgments, including submission to a collection agency, may be 20 21 taken to collect the unpaid fine. If the court orders a fine to be submitted to a collection 22 agency pursuant to this subsection, the court may increase the amount to be collected by an amount up to 33% of the original fine; the additional amount may be retained by the 23 agency collecting the fine. A levy of execution does not discharge an offender confined to 24 25 a county jail under subsection 3, paragraph A, subparagraph (1) for unexcused default 26 until the full amount of the fine has been collected.

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SUMMARY

Current law allows a court to require a defendant who defaults on payment of a fine that was part of a sentence to serve one day in a county jail for each \$5 of the fine, up to a maximum of the unpaid fine or 6 months in jail, whichever is shorter. A court does not have any authority to reduce the amount of the fine even when a defendant petitions the court prior to default.

This bill allows the court, in cases when the court finds the default was not excusable,
 to order:

35 1. Commitment of the offender to incarceration in a county jail for one day for every
36 \$5 of unpaid fine or 6 months, whichever is shorter;

37 2. The offender to perform a specified number of hours of community service work;38 or

1 3. Submission of the unpaid fine to a collection agency. If the fine is submitted to a 2 collection agency, the court may order an additional amount of no more than 33% of the 3 original fine to be added to the fine. This additional amount may be retained by the 4 collection agency.

5 If the court finds that the default was excusable, it may provide the defendant with 6 additional time to pay the fine, reduce the amount of each installment or order the 7 defendant to perform community service work.

8 This bill also allows a court, when it reasonably finds that the fine is uncollectible 9 due to the death or disability of the defendant, to reduce or discharge completely the 10 unpaid balance of the fine.

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