

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



THE LAW LIBRARY
ALBUSTA, MAINE

124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 483

H.P. 345

House of Representatives, February 10, 2009

**An Act To Improve the Service of Protection from Harassment and
Protection from Abuse Orders and the Collection of Restitution by
the Department of Corrections**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HASKELL of Portland.
Cosponsored by Representatives: BURNS of Whiting, LAJOIE of Lewiston, PLUMMER of
Windham, SYKES of Harrison, Senator: DAVIS of Cumberland.

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

2 **Sec. 1. 5 MRSA §4654, sub-§5**, as amended by PL 2003, c. 658, §7, is further
3 amended to read:

4 **5. Service of order.** If the court issues a temporary order or orders emergency or
5 interim relief, the court shall order a law enforcement agency or, if the defendant is
6 present in the courthouse, a court security officer qualified pursuant to Title 4, section 17,
7 subsection 15 or, if the defendant is in the custody of the Department of Corrections, the
8 Department of Corrections to serve the defendant personally with the order, the complaint
9 and the summons. The court shall cause the order to be delivered to the law enforcement
10 agency, the court security officer or the correctional facility in which the defendant is
11 incarcerated as soon as practicable following the issuance of the order, and the law
12 enforcement agency, court security officer or correctional facility shall make a good faith
13 effort to serve process expeditiously.

14 **Sec. 2. 17-A MRSA §1326-A**, as enacted by PL 1999, c. 469, §1, is amended to
15 read:

16 **§1326-A. Time and method of restitution**

17 When restitution is authorized, and the offender is not committed to the Department
18 of Corrections or placed on probation, the time and method of payment or of the
19 performance of the services must be specified. ~~Except when the offender is placed on~~
20 ~~probation, by the court and~~ monetary compensation may be ordered paid to the office of
21 the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the
22 offender is committed to the Department of Corrections or placed on probation, ~~the~~
23 monetary compensation may must be ordered paid to the Department of Corrections and
24 the time and method of payment must be determined by the Department of Corrections
25 during the term of commitment or the period of probation. Once any term of
26 commitment to the Department of Corrections or period of probation is completed and if
27 the restitution ordered has not been paid in full, the offender is subject to the provisions
28 of section 1329, including a specification by the court of the time and method of payment
29 of monetary compensation upon a finding of excusable default. The state agency
30 receiving the restitution shall deposit any money received in the account maintained by
31 the Treasurer of State for deposit of state agency funds, from which funds are daily
32 transferred to an investment account and invested. Interest accrued on that money is the
33 property of and accrues to the State for deposit in the General Fund. The agency
34 receiving the restitution shall make the disbursement to the victim or other authorized
35 claimant as soon as possible after the agency receives the money.

36 **Sec. 3. 17-A MRSA §1328-A**, as enacted by PL 1997, c. 413, §5, is amended to
37 read:

38 **§1328-A. Modification of restitution**

39 A convicted person who can not make restitution payments in the manner ordered by
40 the court or determined by the Department of Corrections pursuant to section 1326-A
41 shall move the court for a modification of the time or method of payment or service to

1 avoid a default. The court may modify its prior order or the determination of the
2 Department of Corrections to reduce the amount of each installment or to allow
3 additional time for payment or service.

4 **Sec. 4. 19-A MRSA §4006, sub-§6**, as amended by PL 2001, c. 134, §5, is
5 further amended to read:

6 **6. Service of order.** If the court issues a temporary order or orders emergency or
7 interim relief, the court shall order an appropriate law enforcement agency or, if the
8 defendant is present in the courthouse, a court security officer qualified pursuant to Title
9 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of
10 Corrections, the Department of Corrections to serve the defendant personally with the
11 order, the complaint and the summons. The court shall cause the order to be delivered to
12 the law enforcement agency ~~or~~, court security officer or the correctional facility in which
13 the defendant is incarcerated as soon as practicable following the issuance of the order
14 and the law enforcement agency ~~or~~, court security officer or correctional facility shall
15 make a good faith effort to serve process expeditiously.

16 SUMMARY

17 This bill permits the Department of Corrections to serve protection from harassment
18 and protection from abuse orders on defendants incarcerated in its facilities. The bill also
19 clarifies that victim restitution must be paid through the Department of Corrections when
20 it is owed by a client of the department and requires that the department determine the
21 time and method of payment while the defendant is a departmental client, with a
22 defendant having recourse to the court to avoid a default.