

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 787

H.P. 594

House of Representatives, March 1, 2011

An Act To Establish an Elder Victims Restitution Fund

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative BURNS of Whiting.
Cosponsored by Senator MASON of Androscoggin and
Representatives: BICKFORD of Auburn, PLUMMER of Windham, ROSEN of Bucksport,
TILTON of Harrington, Senators: GERZOFKY of Cumberland, WHITTEMORE of
Somerset.

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

2 **Sec. 1. 18-A MRSA §2-105**, as enacted by PL 1979, c. 540, §1, is amended to
3 read:

4 **§2-105. No taker**

5 If there is no taker under the provisions of this Article, the intestate estate passes to
6 the State, except that an amount of funds included in the estate up to the total amount of
7 restitution paid to the decedent pursuant to a court order for a crime of which the
8 decedent was the victim passes to the Elder Victims Restitution Fund established in Title
9 34-A, section 1214-A to be used to compensate elderly victims of financial crimes.

10 **Sec. 2. 18-A MRSA §2-803**, as enacted by PL 1979, c. 540, §1, is amended to
11 read:

12 **§2-803. Effect of criminal conviction on intestate succession, wills, joint assets, life**
13 **insurance and beneficiary designations**

14 (a). A surviving spouse, heir or devisee who feloniously and intentionally kills the
15 decedent is not entitled to any benefits under the will or under this Article, and the estate
16 of decedent passes as if the killer had predeceased the decedent. Property appointed by
17 the will of the decedent to or for the benefit of the killer passes as if the killer had
18 predeceased the decedent.

19 (b). Any joint tenant who feloniously and intentionally kills another joint tenant
20 thereby effects a severance of the interest of the decedent so that the share of the decedent
21 passes as ~~his~~ the decedent's property and the killer has no rights by survivorship. This
22 provision applies to joint tenancies in real and personal property, joint and multiple-party
23 accounts in banks, savings and loan associations, credit unions and other institutions, and
24 any other form of coownership with survivorship incidents.

25 (c). A named beneficiary of a bond, life insurance policy, or other contractual
26 arrangement who feloniously and intentionally kills the principal obligee or the person
27 upon whose life the policy is issued is not entitled to any benefit under the bond, policy or
28 other contractual arrangement, and it becomes payable as though the killer had
29 predeceased the decedent.

30 (d). Any other acquisition of property or interest by the killer ~~shall~~ must be treated
31 in accordance with the principles of this section.

32 (e). A final judgment of conviction of felonious and intentional killing is conclusive
33 for purposes of this section. In the absence of a conviction of felonious and intentional
34 killing a Court may determine by clear and convincing evidence whether the killing was
35 felonious and intentional for purposes of this section.

36 (f). This section does not affect the rights of any person who, before rights under
37 this section have been adjudicated, purchases from the killer for value and without notice
38 property ~~which~~ that the killer would have acquired except for this section, but the killer is

1 liable for the amount of the proceeds or the value of the property. Any insurance
2 company, bank, or other obligor making payment according to the terms of its policy or
3 obligation is not liable by reason of this section unless prior to payment it has received at
4 its home office or principal address written notice of a claim under this section.

5 (g). A person who has been convicted of a crime of which the decedent was a victim
6 may not benefit under the will or under this Article; benefit from property owned jointly
7 with the decedent; benefit under a bond, life insurance policy or other contractual
8 arrangement in which the principal obligee or the person upon whose life the policy is
9 issued is the decedent; or benefit from any other acquisition of property in which the
10 decedent had an interest to the extent that an acquisition of property or interest by the
11 offender does not exceed the amount of restitution owed to the decedent by that person as
12 a result of the sentence for the crime.

13 **Sec. 3. 34-A MRSA §1214-A** is enacted to read:

14 **§1214-A. Elder Victims Restitution Fund**

15 The Elder Victims Restitution Fund, referred to in this section as "the fund," is
16 established for the purpose of compensating elder victims of financial crimes.

17 **1. Definition.** As used in this section, unless the context otherwise indicates, the
18 term "elder victim" means a victim of a crime who is 65 years of age or older.

19 **2. Administration.** The Victim Services Coordinator under section 1214 shall
20 administer the fund. All administrative costs of the fund must be absorbed by the
21 department.

22 **3. Funding.** Money collected pursuant to Title 18-A, section 2-105 must be
23 deposited into the fund. The fund may also receive private donations, federal funds and
24 state funds designated by law.

25 **4. Use.** The fund may be used for the payment of claims of elder victims of financial
26 crimes who are entitled to receive restitution from offenders as a result of the sentences
27 for the crimes in cases in which those offenders are not meeting their restitution
28 obligations.

29 **5. Rules.** The commissioner may adopt rules, which are routine technical rules
30 pursuant to Title 5, chapter 375, subchapter 2-A, to carry out the purposes of this section.

31 **SUMMARY**

32 This bill establishes the Elder Victims Restitution Fund to compensate elder victims
33 of financial crimes who are entitled to receive restitution from offenders but who are not
34 receiving that restitution. The fund receives money from estates passing to the State of
35 people who received restitution. The bill provides that a person who has been convicted
36 of a crime of which a decedent was a victim may not benefit under the will of that
37 decedent or by virtue of property held jointly with the decedent or contracts concerning

1 the decedent to the extent of restitution owed by the person who has been convicted of a
2 crime.