

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1201

H.P. 892

House of Representatives, March 21, 2011

An Act To Increase the Amount of Funds Available to Counties for Witness Fees and Prosecution Costs

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 WILLETTE of Mapleton.
Cosponsored by Senator MASON of Androscoggin and
Representative: THERIAULT of Madawaska, Senator: SHERMAN of Aroostook.

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

2 **Sec. 1. 14 MRSA §3144**, as enacted by PL 1987, c. 414, §2, is amended to read:

3 **§3144. Criminal failure to appear; cost of extradition**

4 It is the intent of the Legislature that, when appropriate, the respective district
5 attorney shall utilize Title 17-A, section 17, subsection 4, and prosecute defendants who
6 fail to appear. Any costs of extradition of a defendant who has been charged with the
7 offense of failure to appear ~~shall~~ must be assessed against the defendant and ~~shall be~~
8 reimbursed to the extradition and prosecution expenses account in the appropriate
9 prosecutorial district.

10 **Sec. 2. 15 MRSA §224, sub-§1**, as amended by PL 1983, c. 843, §9, is further
11 amended to read:

12 **1. Expenses paid from funds allotted to prosecuting attorney.** When a fugitive
13 from justice is returned to the State of Maine for prosecution, expenses incurred ~~which~~
14 that are necessary and proper for the return ~~shall~~ must be paid out of the funds allotted for
15 that purpose to the district attorney or from the Extradition and Prosecution Expenses
16 Account established by section 224-A. In those cases prosecuted by the Attorney General,
17 the expenses for extradition ~~shall~~ must be paid by the district attorney in whose county
18 the crime is alleged to have been committed. District attorneys may agree to share
19 expenses whenever a fugitive from justice is charged in the State with more than one
20 offense.

21 **Sec. 3. 15 MRSA §224-A**, as amended by PL 2007, c. 31, §1, is further amended
22 to read:

23 **§224-A. Extradition and Prosecution Expenses Account**

24 **1. Establishment; use.** Notwithstanding any other provision of law, there is
25 established an Extradition and Prosecution Expenses Account in each prosecutorial
26 district in an amount not to exceed ~~\$20,000~~ \$40,000, to be administered by the district
27 attorney and to be used solely for the ~~purpose~~ purposes of paying the expenses of
28 extraditing persons charged with or convicted of a crime in this State and who are
29 fugitives from justice, as defined in section 201, subsection 4, paying fees or expenses of
30 prosecution pursuant to section 1319 or paying witness fees pursuant to section 1320.

31 **2. Funding.** The Extradition and Prosecution Expenses Account in each
32 prosecutorial district is funded by bail forfeited to and recovered by the State pursuant to
33 the Maine Rules of Criminal Procedure, Rule 46. Whenever bail is so forfeited and
34 recovered by the State and if it is not payable as restitution pursuant to Title 17-A, section
35 1329, subsection 3-A, the district attorney shall determine whether it or a portion of it is
36 deposited in the Extradition and Prosecution Expenses Account for that district attorney's
37 prosecutorial district, but in no event may the account exceed ~~\$20,000~~ \$40,000. Any bail
38 so forfeited and recovered and not deposited in the Extradition and Prosecution Expenses
39 Account must be deposited in the General Fund. Any unexpended balance in the

1 Extradition and Prosecution Expenses Account of a prosecutorial district established by
2 this section may not lapse but must be carried forward into the next year.

3 **3. Review by district attorney.** The district attorney shall review monthly the
4 Extradition and Prosecution Expenses Account and the expenses of that prosecutorial
5 district in connection with the extradition of fugitives from justice, prosecution and
6 witnesses and shall determine whether any funds in the account must be transferred to the
7 General Fund.

8 **4. Audit.** Every district attorney shall have an annual audit made by the Department
9 of Audit or by a certified public accountant selected by the district attorney of the
10 Extradition and Prosecution Expenses Account for ~~his~~ that district attorney's prosecutorial
11 district, covering the last complete fiscal year.

12 If the auditor finds in the course of ~~his~~ the audit evidence of improper transactions,
13 incompetency in keeping accounts or handling funds, failure to comply with this section
14 or any other improper practice of financial administration, ~~he~~ the auditor shall report ~~the~~
15 same that finding to the Attorney General immediately.

16 **5. Advances and accounting for extradition.** The district attorney shall advance
17 funds from the Extradition and Prosecution Expenses Account to the agents designated by
18 ~~him~~ the district attorney to return a fugitive from justice to this State. A full accounting of
19 all expenses and the return of all unused funds ~~shall~~ must be made by the agents no later
20 than 3 business days from the date of return. All funds returned ~~shall~~ must be credited to
21 the Extradition and Prosecution Expenses Account from which they were paid.

22 **Sec. 4. 15 MRSA §1319**, as enacted by PL 1975, c. 775, §1, is amended to read:

23 **§1319. Authorization of payments by a prosecuting attorney**

24 For purposes of this chapter, ~~where~~ when a prosecuting attorney is permitted to
25 authorize payment of fees or expenses incurred on behalf of the State in a criminal
26 prosecution, payment of those fees and expenses ~~shall~~ must be made by the proper
27 authorities to the persons, municipalities or agencies to whom the payment is authorized
28 upon certification to those authorities by the prosecuting attorney or ~~his~~ the prosecuting
29 attorney's designee that the payment is reasonable and necessary to the prosecution of a
30 given criminal case. Payment may be made from the Extradition and Prosecution
31 Expenses Account established in section 224-A.

32 **Sec. 5. 15 MRSA §1320, sub-§1**, as amended by PL 1977, c. 63, is repealed and
33 the following enacted in its place:

34 **1. Payments.** Payments made under this section must be made first from the
35 Extradition and Prosecution Expenses Account established in section 224-A and, if there
36 are insufficient funds in that account, next from the county treasury upon authorization of
37 the prosecuting attorney, unless otherwise expressly directed by law. Payments from the
38 county treasury must be made from the sums set aside in the county budget for the
39 payments on account of Superior Court criminal proceedings.

1 **SUMMARY**

2 Current law requires forfeited bail to be paid into an account maintained by each
3 prosecutorial district for the purpose of paying expenses related to extradition of fugitives
4 from justice. The maximum amount that may be retained in that account is \$20,000.

5 This bill increases the amount that may be retained in that account to \$40,000 and
6 expands the uses of the funds in the account to allow it to be used to pay for fees or
7 expenses, including witness fees, incurred by the district attorney in a criminal
8 prosecution.