

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1601

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H.P. 1173

House of Representatives, December 30, 2013

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

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

Received by the Clerk of the House on December 23, 2013. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WILLETTE of Mapleton.  
Cosponsored by Senator JACKSON of Aroostook and  
Representatives: FREDETTE of Newport, McCABE of Skowhegan.

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 account~~ Extradition and Prosecution Expenses Account in  
9 the appropriate prosecutorial district, established pursuant to section 224-A.

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  
17 General, the expenses for extradition ~~shall~~ must be paid by the district attorney in whose  
18 county 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 and PL 2013, c. 16,  
22 §10, is further amended 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 and 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 Office of  
9 the State Auditor or by a certified public accountant selected by the district attorney of  
10 the Extradition and Prosecution Expenses Account for ~~his~~ that district attorney's  
11 prosecutorial 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  
19 of all expenses and the return of all unused funds ~~shall~~ must be made by the agents no  
20 later than 3 business days from the date of return. All funds returned ~~shall~~ must be  
21 credited to the Extradition and Prosecution Expenses Account from which they were  
22 paid.

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

24 **§1319. Authorization of payments by a prosecuting attorney**

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

33 **Sec. 5. 15 MRSA §1320, sub-§1**, as amended by PL 1977, c. 63, is further  
34 amended to read:

35 **1. Payments.** Payments made ~~hereunder shall~~ under this section must be made first  
36 from the Extradition and Prosecution Expenses Account established in section 224-A and,  
37 if there are insufficient funds in that account, next from the county treasury upon  
38 authorization of the prosecuting attorney, unless otherwise expressly directed by law ~~and~~  
39 ~~the payments shall~~. Payments from the county treasury must be made from the sums set  
40 aside in the county budget for the payments on account of Superior Court criminal  
41 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 the extradition of  
4 fugitives from justice. The maximum amount that may be retained in that account is  
5 \$20,000.

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