

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 electronic originals
(may include minor formatting differences from printed original)



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 983

S.P. 322

In Senate, March 9, 2017

An Act To Increase Efficiency in the Enforcement of Restitution and Bail Orders

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
Secretary of the Senate

Presented by Senator CARPENTER of Aroostook.
Cosponsored by Representative McCREA of Fort Fairfield and
Representatives: MARTIN of Sinclair, SHERMAN of Hodgdon.

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

2 **Sec. 1. 15 MRSA §1094, sub-§2-A** is enacted to read:

3 **2-A. Violation of unsecured preconviction bail.** If the court determines that an
4 offender has violated unsecured preconviction bail and that the violation is not excused,
5 the court shall enter an order of forfeiture of bail, which may not exceed the amount of
6 the unsecured bail previously set. The attorney for the State may take action to collect
7 the amount forfeited using measures authorized for the collection of judgments,
8 including, but not limited to, entering into agreements with the offender for payment over
9 a set period of time not to exceed one year. In order to satisfy an order of forfeiture
10 entered under this subsection, pursuant to Title 36, section 185-A, the State Tax Assessor
11 may withhold funds owed to an offender.

12 **Sec. 2. 17-A MRSA §1326-A,** as amended by PL 2011, c. 464, §23, is further
13 amended to read:

14 **§1326-A. Time and method of restitution**

15 When restitution is authorized, and the offender is not committed to the Department
16 of Corrections and does not receive a sentence that includes a period of probation, the
17 time and method of payment or of the performance of the services must be specified by
18 the court and monetary compensation may be ordered paid to the office of the prosecuting
19 attorney who is prosecuting the case or to the clerk of the court or withheld by the State
20 Tax Assessor pursuant to Title 36, section 185, subsection 4 or Title 36, section 5276-A,
21 subsection 1. If the offender is committed to the Department of Corrections or receives a
22 sentence that includes a period of probation, monetary compensation must be paid to the
23 Department of Corrections and the time and method of payment must be determined by
24 the Department of Corrections during the term of commitment or the period of probation
25 unless at the time of sentencing the court has specified the time and method of payment.
26 Once any term of commitment to the Department of Corrections or period of probation is
27 completed and if the restitution ordered has not been paid in full, the offender is subject
28 to the provisions of section 1326-F and, in the event of a default, the provisions of section
29 1329. The state agency receiving the restitution shall deposit any money received in the
30 account maintained by the Treasurer of State for deposit of state agency funds, from
31 which funds are daily transferred to an investment account and invested. Interest accrued
32 on that money is the property of and accrues to the State for deposit in the General Fund.
33 The agency receiving the restitution shall make the disbursement to the victim or other
34 authorized claimant as soon as possible after the agency receives the money.

35 **Sec. 3. 36 MRSA §185-A** is enacted to read:

36 **§185-A. Forfeited unsecured preconviction bail**

37 The State Tax Assessor may withhold funds owed by the State to a taxpayer with
38 regard to whom a justice or judge has entered an order of forfeiture of unsecured
39 preconviction bail pursuant to Title 15, section 1094, subsection 2-A. The State Tax
40 Assessor shall remit funds withheld under this section to the attorney for the State within
41 30 days of withholding the funds.

1 **Sec. 4. 36 MRSA §5276-A, sub-§1**, as repealed and replaced by PL 1997, c. 393,
2 Pt. A, §43 and affected by §44 and amended by PL 2003, c. 20, Pt. OO, §2 and affected
3 by §4 and amended by c. 689, Pt. B, §6, is further amended to read:

4 **1. Generally.** An agency of the State, including the University of Maine System ~~or~~
5 the Maine Community College System; or a prosecutorial district, that is authorized to
6 collect from an individual or corporation a liquidated debt greater than \$25 shall notify in
7 writing the State Tax Assessor and supply information necessary to identify the debtor
8 whose refund is sought to be set off. The assessor, upon notification, shall assist the
9 requesting agency by setting off that debt against a refund to which that individual or
10 corporation is entitled under this Part. Liquidated child support debts that the Department
11 of Health and Human Services has contracted to collect, pursuant to Title 19-A, section
12 2103 or 2301, subsection 2, are eligible, under the provisions of this section, for setoff
13 against a refund due the obligated individual. The assessor shall provide the creditor
14 agency with the name, address and social security number of each debtor whose refund is
15 subject to setoff.

16
SUMMARY

17 This bill provides that if a court determines that an offender has violated unsecured
18 preconviction bail and that the violation is not excused, the court must enter an order of
19 forfeiture of bail, which may not exceed the amount of the unsecured bail previously set.
20 The bill authorizes an attorney for the State or a prosecutorial district to take action to
21 collect the amount of forfeited bail and requires the State Tax Assessor to withhold funds
22 owed to a taxpayer with regard to whom a forfeiture order has been entered.

23 This bill also allows the court to order the State Tax Assessor to withhold restitution
24 owed by an offender from any tax refund owed to that offender.