

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

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TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
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CHAPTER 367

H.P. 1491 - L.D. 2129

**An Act to Bring Certain Criminal
Code Provisions Addressing Fines
Into Conformity with Recently
Amended Criminal Code Provisions
Addressing Restitution**

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

Sec. 1. 15 MRSA §3314, sub-§1, ¶G, as amended by PL 1995, c. 470, §8, is further amended to read:

G. Except for a violation of section 3103, subsection 1, paragraph D, the court may impose a fine, subject to Title 17-A, sections 1301 to ~~1305~~ 1304. For the purpose of this section, juvenile offenses defined in section 3103, subsection 1, paragraphs B and C are deemed Class E crimes.

Sec. 2. 17-A MRSA §1301-A is enacted to read:

§1301-A. Use of fine relative to natural persons

Except when specifically precluded, in choosing the appropriate punishment for every natural person convicted of a crime, the court shall consider the desirability of imposing a sentencing alternative involving a fine either in conjunction with or in lieu of imprisonment. A sentencing alternative involving imprisonment may not be imposed by a court solely for the reason that the person does not have the present or future financial capacity to pay a fine.

Sec. 3. 17-A MRSA §1302, as amended by PL 1993, c. 103, §4, is repealed and the following enacted in its place:

§1302. Criteria for imposing fines

1. In determining the amount and method of payment of a fine, the court shall take into account the present and future financial capacity of the offender to pay the fine and the nature of the financial burden that payment of the fine will impose on the offender or a dependent of the offender, if any.

2. An offender who asserts a present or future incapacity to pay a fine or asserts that the fine will cause an excessive financial hardship on the offender or on a dependent of the offender has the burden of proving the incapacity or excessive hardship by a preponderance of the evidence. On appeal of a sentencing alternative involving a fine, the offender has the burden of demonstrating that the incapacity or

excessive financial hardship was proven as a matter of law.

Sec. 4. 17-A MRSA §§1303-A and 1303-B are enacted to read:

§1303-A. Postconviction relief

If, in any judicial proceeding following conviction, a court issues a final judgment invalidating the conviction, the judgment may include an order that a fine payment or any part of a fine payment that the convicted person paid pursuant to the sentence for that conviction be returned to the convicted person.

§1303-B. Modification of payment of fine

A convicted person who has been sentenced to pay a fine shall move the court for a modification of time or method of payment to avoid a default. The court may modify its prior order to allow additional time for payment or to reduce the amount of each installment.

Sec. 5. 17-A MRSA §1304, as amended by PL 1997, c. 393, Pt. B, §8, is repealed and the following enacted in its place:

§1304. Default

1. An offender who has been sentenced to pay a fine and has defaulted in payment of that fine must be returned to court for further disposition.

2. A probation officer having knowledge of a default in payment of a fine by an offender shall report the default to the office of the attorney for the State. An attorney for the State having knowledge of a default in payment of a fine by an offender shall report the default to the court. If the fine was a condition of probation, the attorney for the State may file a motion to enforce payment of the fine or, with the written consent of the probation officer, a motion to revoke probation under section 1205. If the fine was not a condition of probation, the attorney for the State may file a motion to enforce payment of the fine.

3. Either the attorney for the State or the court may initiate a motion to enforce payment of a fine. Notification for the hearing on the motion must be sent by regular mail to the offender's last known address. If the offender does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant.

A. Unless the offender shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good-faith effort to obtain the funds required for the payment, the court shall find that the default was unexcused and

may commit the offender to the custody of the sheriff until all or a specified part of the fine is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed one day for every \$5 of unpaid fine or 6 months, whichever is shorter. An offender committed for nonpayment of a fine is given credit toward the payment of the fine for each day of confinement that the offender is in custody, at the rate specified in the court's order. The offender is also given credit for each day that the offender is detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any fine remaining after receiving credit for confinement and detention. A default on the remaining fine is also governed by this section.

B. If it appears that the default is excusable, the court may give the offender additional time for payment or may reduce the amount of each installment.

C. If the court commits a person to the custody of the sheriff for nonpayment of a fine, the court may authorize, at the time of its order only, participation of the person in a project under Title 30-A, section 1606 with the agreement of the sheriff of the county jail where the person is committed. The person must be given credit according to Title 30-A, section 1606, subsection 2.

D. The confinement ordered under this subsection must be nonconcurrent with any judgment of conviction involving a term of imprisonment.

4. Upon any default, execution may be levied and other measures authorized for the collection of unpaid civil judgments may be taken to collect the unpaid fine. A levy of execution does not discharge an offender confined to a county jail under subsection 3 for unexcused default until the full amount of the fine has been collected.

5. When a fine is imposed on an organization, the person or persons authorized to make disbursements from the assets of the organization shall pay the fine from the organization's assets. Failure to do so may subject the person or persons to court action pursuant to this section.

Sec. 6. 17-A MRSA §1305, as enacted by PL 1975, c. 499, §1, is repealed.

Sec. 7. 17-A MRSA §1329, sub-§3, ¶C is enacted to read:

C. The confinement ordered under this subsection must be nonconcurrent with any judgment of conviction involving a term of imprisonment.

See title page for effective date.

CHAPTER 368

H.P. 1424 - L.D. 2031

An Act to Amend the Laws Relating to Issuance of a Warrant in the Name of the District Court

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

Sec. 1. 15 MRSA §706, as amended by PL 1991, c. 484, §7, is further amended to read:

§706. District Court; warrants

Judges of District Courts ~~shall~~ have all authority and powers ~~now formerly~~ granted by law to judges of municipal courts, ~~provided no Judge of the District Court may sit as the trial judge in any case arising from a complaint to such judge and warrant of arrest resulting therefrom, unless by consent of the defendant.~~

When a complaint or an information charging a person with the commission of an offense, or a duly authenticated arrest warrant issued by the Tribal Court of the Passamaquoddy Tribe or the Penobscot Nation, is presented to any Judge of the District Court, to a justice of the peace or to any other officer of the District Court authorized to issue process, the judge, justice of the peace or other officer shall issue a warrant in the name of the District Court for the arrest of ~~such that~~ person, in that form and under the circumstances that the Supreme Judicial Court provides by rule ~~provides. The justice of the peace or other officer does not have authority to preside at any trial, and may not appear as counsel in any criminal case in which that officer has heard the complaint.~~ A clerk of the District Court may accept a guilty plea upon payment of fines as set by the judge.

A Judge of the District Court may try those brought before ~~him~~ the judge for offenses within ~~his~~ the judge's jurisdiction, although the penalty or fine accrues wholly or partly to the municipality of which ~~he~~ the judge is a resident.

See title page for effective date.
