

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Allow Community Service in Lieu of Fines**

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

**Sec. 1. 17-A MRS §1303-B**, as enacted by PL 1999, c. 367, §4, is amended to read:

### **§ 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, order community service work pursuant to chapter 54-C or, when the court reasonably determines that the fine is uncollectible due to death or disability of the convicted person, reduce or discharge completely the remaining balance of the fine.

**Sec. 2. 17-A MRS §1304, sub-§3, ¶A**, as enacted by PL 1999, c. 367, §5, is repealed and the following enacted in its place:

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:

(1) 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 pursuant to this subparagraph 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;

(2) Order the offender to perform a specified number of hours of community service work pursuant to chapter 54-C; or

(3) Submit the unpaid fine to a collection agency pursuant to subsection 4.

**Sec. 3. 17-A MRS §1304, sub-§3, ¶B**, as enacted by PL 1999, c. 367, §5, is repealed and the following enacted in its place:

B. If it appears that the default is excusable, the court may:

(1) Give the offender additional time for payment;

(2) Reduce the amount of each installment;

(3) Order the offender to perform a specified number of hours of community service work pursuant to chapter 54-C; or

(4) In cases when the court reasonably determines that the fine is uncollectible due to death or disability of the offender, reduce or discharge completely the unpaid balance of the fine.

**Sec. 4. 17-A MRSA §1304, sub-§3, ¶C**, as enacted by PL 1999, c. 367, §5, is amended to read:

C. If the court commits a person to the custody of the sheriff for nonpayment of a fine pursuant to subsection 3, paragraph A, subparagraph (1), 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.

**Sec. 5. 17-A MRSA §1304, sub-§3, ¶D**, as enacted by PL 1999, c. 367, §5, is amended to read:

D. The confinement ordered under this subsection 3, paragraph A, subparagraph (1) must be nonconcurrent with any judgment of conviction involving a term of imprisonment.

**Sec. 6. 17-A MRSA §1304, sub-§4**, as repealed and replaced by PL 1999, c. 367, §5, is amended to read:

4. Upon any default, execution may be levied and other measures authorized for the collection of unpaid civil judgments, including submission to a collection agency, may be taken to collect the unpaid fine. If the court orders a fine to be submitted to a collection agency pursuant to this subsection, the court may increase the amount to be collected by an amount up to 33% of the original fine; the additional amount may be retained by the agency collecting the fine. A levy of execution does not discharge an offender confined to a county jail under subsection 3, paragraph A, subparagraph (1) for unexcused default until the full amount of the fine has been collected.

## SUMMARY

Current law allows a court to require a defendant who defaults on payment of a fine that was part of a sentence to serve one day in a county jail for each \$5 of the fine, up to a maximum of the unpaid fine or 6 months in jail, whichever is shorter. A court does not have any authority to reduce the amount of the fine even when a defendant petitions the court prior to default.

This bill allows the court, in cases when the court finds the default was not excusable, to order:

1. Commitment of the offender to incarceration in a county jail for one day for every \$5 of unpaid fine or 6 months, whichever is shorter;
2. The offender to perform a specified number of hours of community service work; or
3. Submission of the unpaid fine to a collection agency. If the fine is submitted to a collection agency, the court may order an additional amount of no more than 33% of the original fine to be added to the fine. This additional amount may be retained by the collection agency.

If the court finds that the default was excusable, it may provide the defendant with additional time to pay the fine, reduce the amount of each installment or order the defendant to perform community service work.

This bill also allows a court, when it reasonably finds that the fine is uncollectible due to the death or disability of the defendant, to reduce or discharge completely the unpaid balance of the fine.