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Legislative Document

No. 714

H.P. 545

House of Representatives, February 23, 2011

An Act To Require Probation Officers To Set a Schedule for Restitution Payment

Received by the Clerk of the House on February 18, 2011. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative NASS of Acton.
Cosponsored by Representatives: BEAULIEU of Auburn, BURNS of Whiting, CRAY of Palmyra, EDGECOMB of Caribou, HANLEY of Gardiner, McKANE of Newcastle, PLUMMER of Windham.

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

2 **Sec. 1. 17-A MRSA §1204, sub-§2-A, ¶B,** as amended by PL 2009, c. 608, §9,
3 is further amended to read:

4 B. To make restitution pursuant to chapter 54 to each victim of the convicted
5 person's crime, or to the county where the offense is prosecuted if the identity of the
6 victim cannot be ascertained or if the victim voluntarily refuses the restitution. If the
7 court orders as a condition of probation that the convicted person forfeit and pay a
8 specific amount of restitution, that order, as a matter of law, also constitutes the
9 imposition of restitution pursuant to chapter 54 as a sentencing alternative and no
10 additional order in this regard is necessary. A probation officer shall set a schedule
11 for restitution payment, unless a schedule has been set by the court. The court shall
12 order employment searches for defendants in all cases in which restitution is ordered.

13 **Sec. 2. 17-A MRSA §1326-B, sub-§2,** as enacted by PL 1999, c. 469, §1, is
14 amended to read:

15 2. The income withholding order is effective as long as the order for restitution
16 upon which it is based is effective, including after a defendant is no longer in the custody
17 or under the supervision of the Department of Corrections and has not paid the restitution
18 in full as described in section 1326-F, or until further order of the court.

19 **Sec. 3. 17-A MRSA §1326-F,** as enacted by PL 2009, c. 608, §14, is amended to
20 read:

21 **§1326-F. Former Department of Corrections' clients owing restitution**

22 An offender is responsible for paying any restitution outstanding at the time the term
23 of commitment to the Department of Corrections or period of probation is completed. An
24 offender who has complied with the time and method of payment of monetary
25 compensation determined by the Department of Corrections during the period of
26 probation shall continue to make payments to the Department of Corrections in
27 accordance with that payment schedule unless modified by the court pursuant to section
28 1328-A or 1329. An offender who has not complied with the time and method of
29 payment of monetary compensation determined by the Department of Corrections during
30 the period of probation must be returned to the court for further disposition pursuant to
31 section 1329. An offender who is unconditionally released and discharged from
32 institutional confinement with the Department of Corrections upon the expiration of the
33 sentence must, upon application of the office of the attorney for the State, be returned to
34 the court for specification by the court of the time and method of payment of monetary
35 compensation, which may be ordered paid to the office of the attorney for the State who
36 prosecuted the case or to the clerk of the court. Prior to the offender's release and
37 discharge, the Department of Corrections shall provide the office of the attorney for the
38 State who prosecuted the case written notice as to the amount of restitution outstanding.
39 An income withholding order issued pursuant to section 1326-B remains effective and
40 enforceable until the restitution is paid in full, even after an offender is no longer in the
41 custody or under the supervision of the Department of Corrections.

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SUMMARY

This bill clarifies that a probation officer shall set a schedule for restitution payment, unless a schedule has been set by the court. The court shall order employment searches for all defendants in all cases where restitution is ordered. The bill also clarifies that income withholding orders remain effective and enforceable until the restitution is paid in full, even after an offender is no longer in the custody or under the supervision of the Department of Corrections.