

**OFFICE OF POLICY AND LEGAL ANALYSIS  
BILL ANALYSIS**

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**TO: Members, Joint Standing Committee on Criminal Justice and Public Safety**

**FROM: Jane Orbeton, Legislative Analyst**

**DATE: March 25, 2021**

**LD: 536 An Act To Amend the Maine Criminal Code**

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**Summary**

This bill is submitted by the Criminal Law Advisory Commission.

Senator Deschambault sponsored the bill and spoke in favor of it at the public hearing. Additional people testifying, who brought to the attention of the committee specific issues that will be included below, include John Pelletier, chair of the Criminal Law Advisory Commission (CLAC), Michael Kebede for the ACLU, Kathryn Slattery for the Maine Prosecutors Association (MPA) and Tina Nadeau for the Maine Association of Criminal Defense Lawyers (MACDL). District Attorney Todd Collins, from Aroostook County, and Kent Avery, AAG and chair of the Sex Offender Management and Risk Assessment Advisory Commission (SOMRAAC) provided written testimony.

**Part A**

Part A of the bill addresses the authority of the judge to order a concurrent or nonconcurrent (consecutive) sentence for a person who has a prior conviction with a term of imprisonment that is being served or that is stayed.

MACDL and ACLU oppose Part A.

MPA supports Part A.

**Part A governs sentencing when a person is under a sentence on another crime** as follows:

1. For a person who is being sentenced for a crime committed while that person is serving a term of imprisonment, current law requires this sentence to be nonconcurrent. Part A, in Title 17-A, section 1609, subsection 1, does not change this. A person on supervised community confinement is sentenced under this provision.
2. For a person who is being sentenced for a conviction of attempt to commit a crime while that person is serving a term of imprisonment, current law requires this sentence to be nonconcurrent. Part A, in Title 17-A, subsection 1, does not change this. A person on supervised community confinement is sentenced under this provision.
3. For a person who is subject to an undischarged term of imprisonment who is being sentenced for a crime committed during a stay of execution of a term of imprisonment,

under current law this sentence must be concurrent. Part A, in Title 17-A, section 1609, subsection 2, gives the judge discretion to order a concurrent or nonconcurrent sentence.

4. For a person who is being sentenced for a crime committed after failure to report after a stay of execution, under current law the sentence must be concurrent. Part A, in proposed Title 17-A, section 1609, subsection 2, gives the judge discretion to order a concurrent or nonconcurrent sentence.

5. For a person who is being sentenced for a conviction of failure to report as ordered after a stay of execution, under current law the sentence must be concurrent. Part A, in proposed Title 17-A, section 1609, subsection 2, gives the judge discretion to order a concurrent or nonconcurrent sentence.

### **Comparison to Committee amendment to LD 2037 from 129<sup>th</sup> Legislature**

Part A differs as explained below. The committee amendment contained in Part F an annual report from the Maine Information and Analysis Center to CJPS on the performance of the MIAC. An annual report form MIAC is the subject of LD 12 in the 130<sup>th</sup> Legislature.

### **Part A in Majority Committee Amendment to LD 2037, 129<sup>th</sup> Legislature**

Part A of the majority committee amendment allows the judge in sentencing a person in circumstances 1 through 5 above to order a sentence that is concurrent or nonconcurrent (consecutive). If a nonconcurrent sentence is ordered, the first sentence may be interrupted by tolling, with the result that the nonconcurrent sentence begins immediately and continues to its end. At that point the first sentence resumes and runs until its end. No portion of the nonconcurrent sentence may be suspended. This is the text of the committee amendment to LD 2037 as it relates to Part A of LD 536:

*Sec. A-3. 17-A MRSA §1609-A is enacted to read:*

#### **§ 1609-A. Discretionary sentence**

*Notwithstanding section 1608, when an individual subject to an undischarged term of imprisonment is convicted of a crime committed while in execution of any term of imprisonment, is convicted of a crime committed during a stay of execution of any term of imprisonment, is convicted of a crime committed after failure to report after a stay of execution of any term of imprisonment or is convicted of failure to report as ordered after a stay of execution of any term of imprisonment, the court may order that the sentence is not concurrent with any undischarged term of imprisonment. If the court orders that the sentence is not concurrent, the court may order that any undischarged term of imprisonment be tolled and service of the nonconcurrent sentence commence immediately, and the court shall so order if any undischarged term of imprisonment is a split sentence. No portion of the nonconcurrent sentence may be suspended. Any nonconcurrent sentence that the convicted individual receives as a result of an order entered pursuant to this section must be nonconcurrent with all other sentences.*

## **Part B**

Part B corrects an inconsistency in the laws on restitution. When the victim for whom restitution is being collected cannot be found, Title 17-A, section 2009 requires the prosecuting attorney to forward those funds to the Treasurer of State to be handled as unclaimed property. But if the Department of Corrections is collecting restitution and the victim cannot be located DOC is required to inform the court and the court determines the distribution of the funds. Part B resolves this conflict by having DOC forward the collected restitution to the Treasurer of State to be handled as unclaimed property.

MPA supports Part B.

## Information from Anna Black, Maine DOC

*Currently, the MDOC does not hold funds when victims cannot be located as specified under Title 17-A section 2016. Rather MDOC follows Title 17-A section 2009 which requires the restitution funds in these cases to be turned over to the Treasurer, where they are treated as abandoned (unclaimed) property.*

*As you know, the point of the bill is to make Title 17-A section 2016 consistent with section 2009 and the MDOC's practice of following section 2009.*

*Since 2005 MDOC has sent a total of \$64,323.95 to the Treasurer to be handled as unclaimed property for those victims, who, after due diligence, were unable to be located.*

*Currently there is a total of \$58,061.29 pending to be sent to the Treasurer.*

*Combining total sent and total pending that: \$122,385.24.*

## **Part C**

Part C corrects an error that dates back to 2001 in the kidnapping law, Title 17-A, section 301. Each crime in the Criminal Code should be in a separate unit of the law (a section, subsection, paragraph or subparagraph). The error is in section 301, subsection 1, paragraph A, subparagraph 3, which reads that the actor knowingly restrains another person with the intent to "inflict bodily injury upon the other person or subject the other person to conduct defined as criminal in chapter 11." Chapter 11 is sexual assaults. This error matters because a person convicted under Title 17-A, section 301, subsection 1, paragraph A, subparagraph 3 is required to comply with the requirements of the Sex Offender Notification and Registration Act and to register for the offender's lifetime. This is legally correct for a person convicted of kidnapping with the intent to commit a sexual assault under Title 17-A, chapter 11. It is not legally correct for a person convicted of kidnapping with the intent to inflict bodily injury.

Part C separates the 2 variants of kidnapping into an amended subparagraph 3 and a new subparagraph 3-A. Part C then corrects the Sex Offender Notification and Registration Act to reflect the separation into subparagraphs 3 and 3-A, so that the sex offender is subject to the Act and non-sex offender will not be subject to that Act. Similarly, Part C corrects Title 37-B, section 504, subsection 4, paragraph H, on eligibility for internment in the Maine Veterans' Memorial Cemetery System so that the non-sex offender will not be excluded from eligibility and the sex offender will be excluded. Under current law the non-sex offender must register and comply for life and is ineligible for the veterans' cemetery. This is a mistake in drafting Title 17-A, section 301, subsection 1, paragraph A, subparagraph 3.

MACDL and MPA support Part C.

## **Part D**

Part D amends the law that protects people who call for emergency help or administer naloxone in the situation of a drug-related overdose or who suffer an overdose. This law protects the caller from: (1) a drug possession prosecution if the grounds for the charge are obtained as a result of the call for assistance; and (2) from prosecution for a violation of probation. Note that the first protection is for a drug possession crime. The second protection is for a probation violation charge but it is not limited to drug possession. The protection is from prosecution for violation of probation for any reason, including drug possession, bank robbery or gun possession if the grounds for prosecution are obtained as a result of the call or administering Narcan or the overdose. Part D narrows the probation violation protection to a charge of violation of probation for drug possession.

MACDL, SOMRAAC and MPA support Part D.

## **Part E**

Part E repeals Title 17-A, section 257 in the sentencing laws that requires the judge to treat certain factors, if present, as increasing the risk of repeat offenses by the person. Section 257 reads:

### **§257. Factors aiding in predicting high-risk sex offenders for sentencing purposes**

1. In assessing for sentencing purposes the risk of repeat offenses by a person convicted of a crime under chapter 11, a court shall treat each of the following factors, if present, as increasing that risk:

- A. The victim of the crime is prepubescent;
- B. The victim of the crime is the same gender as the offender;
- C. The victim of the crime is a total stranger to the offender; and
- D. The offender has been previously convicted of a crime under chapter 11 or previously convicted in another jurisdiction for conduct substantially similar to that contained in chapter 11.

A court may also utilize any other factor found by that court to increase the risk of repeat offenses by a person convicted of a crime under chapter 11.

MACDL, MPA and ACLU support Part E.

The committee asked for information on predicting recidivism of sex offenders. The text excised from an email from Dr. Debra Baeder, clinical director of the DHHS Office of Behavioral Health reads:

Here is what I have ascertained about current thinking in the empirical literature about victim/perpetrator gender in sex offenses:

- Most sex offenders are male. There is much more research with respect to male sex offending than female sex offending. I presume the sentencing enhancements apply to both male and female offenders, which could prove problematic. For example sex offense recidivism rates are much lower for female offenders – greatly increasing the risk of misclassifying any given female offender as high risk and therefore subject to sentencing enhancements. Risk factors are also different for female sex offenders, although as I said, less is known about risk factors for female offenders.
- Much of the empirical literature regarding risk factors pertains to male offenders as is true of risk assessment tools.

- That said, most well-respected sex offending risk assessment tools (based almost exclusively on the empirical literature pertaining to men) include having had a male victim...without specific reference to the gender of the perpetrator. Data suggests, however, that having had a male victim is not a proven risk factor for sex offense recidivism for female offenders.
- If one were to dig deeper, what appears to be more robust with respect to future male sex offending is having *exclusively* male victims, especially if the male offender perpetrates against children.

So there is a consensus that either ever having had or having had exclusively male victims is an important risk factor for male sex offender recidivism, but not for female sex offender recidivism. With respect to the sentencing enhancements, I am not sure how that risk factor morphed into the notion that the perpetrator and the victim being of the same gender matters...except that most sex offenders are male and male victims matter. The latter is not the same as the former, particularly when you extrapolate to female sex offenders. Needless to say, there is nothing in the empirical literature to suggest that female sex offense recidivism is in any way tied to having female (same gender) victims.

What is important to note, and may have some bearing on sentencing enhancements, is that sex offending is also related to both general and violent non-sexual recidivism. But none of the static or dynamic risk factors associated with general or violent non-sexual recidivism have much of anything to do with the gender of the victim for either male or female sex offenders.

Bottom line John, for male sex offenders, a risk factor for sex offense recidivism is ever having had or having had exclusively male victims, with the latter being more robust, particularly for those males who perpetrate against children.”

Thank you. Debbie



Debra Baeder Ph.D., ABPP – Forensic  
Clinical Director  
Office of Behavioral Health

**INFORMATION REQUESTED:**

1. Regarding Part B, Kathryn Slattery was asked for information on the amount of restitution collected by the Department of Corrections and the prosecutors for which they are unable to locate the victim.
2. Regarding Part E, information was requested from the State Forensic Service regarding the predictive value of the factors listed in Title 17-A, section 257. See above.

Sponsor: Sen. Miramant  
Drafter: JO  
Date: April 13, 2021  
File: G:\COMMITTEES\CJPS\AMENDMTS\130th 1st\024302.Docx

**Committee Amendment to LD 801**  
**An Act Regarding Sentencing Options for a Person Convicted of a Crime Committed**  
**While Serving a Term of Imprisonment**

Amend the bill by striking everything after the enacting clause and be inserting in its place the following:

**Sec. 1.** 17-A MRS §1609 is repealed.

**Sec. 2.** 17-A MRS §1609-A is enacted to read:

**§1609-A. Discretionary sentence**

Notwithstanding section 1608, when an individual subject to an undischarged term of imprisonment is convicted of a crime committed while in execution of any term of imprisonment, is convicted of a crime committed during a stay of execution of any term of imprisonment, is convicted of a crime committed after failure to report after a stay of execution of any term of imprisonment or is convicted of failure to report as ordered after a stay of execution of any term of imprisonment, the court may order that the sentence is not concurrent with any undischarged term of imprisonment. If the court orders that the sentence is not concurrent, the court may order that any undischarged term of imprisonment be tolled and service of the nonconcurrent sentence commence immediately, and the court shall so order if any undischarged term of imprisonment is a split sentence. No portion of the nonconcurrent sentence may be suspended. Any nonconcurrent sentence that the convicted individual receives as a result of an order entered pursuant to this section must be nonconcurrent with all other sentences.

**SUMMARY**

This amendment adds to the bill that when an individual subject to an undischarged term of imprisonment is convicted of a crime committed while in execution of any term of imprisonment, is convicted of a crime committed during a stay of execution of any term of imprisonment, is convicted of a crime committed after failure to report after a stay of execution of any term of imprisonment or is convicted of failure to report as ordered after a stay of execution of any term of imprisonment, the court may order that the sentence is not concurrent with any undischarged term of imprisonment. If the court orders that the sentence is not concurrent, the court may order that any undischarged term of imprisonment be tolled and service of the nonconcurrent sentence commence immediately, and requires the court to so order if any undischarged term of imprisonment is a split sentence. No portion of the nonconcurrent sentence may be suspended. Any nonconcurrent sentence that the convicted individual receives as a result of an order entered pursuant to this provision must be nonconcurrent with all other sentences.



STATE OF MAINE  
SEX OFFENDER MANAGEMENT AND RISK  
ASSESSMENT ADVISORY COMMISSION

Kent Avery, Chair  
Adam Silberman, Secretary-Treasurer  
Elizabeth Coleman  
Anne Jordan, ex-officio  
Matthew Ruel  
Elizabeth Ward Saxl

April 5, 2021

Re: LD 536 - An Act to Amend the Maine Criminal Code (**Parts C and E**)

Senator Deschambault, Representative Warren and members of the Committee on Criminal Justice and Public Safety:

The Sex Offender Management and Risk Assessment Advisory Commission (“Commission”) submits the following testimony regarding LD 536 (Parts C and E only) - An Act to Amend the Maine Criminal Code:

Part C only – The Commission is opposed to Part C, as written, because it does not include sex offenses outside of Chapter 11. In particular, 17-A M.R.S. §282, Sexual exploitation of minor, contained in Chapter 12, is not included in subsection 3-A. The Commission believes sexual exploitation of a minor should be included in subsection 3-A and would support Part C if the following language were added to the end of subsection 3-A: “or 17-A M.R.S. §282.”

Part E only – The Commission is in favor of Part E. The factors identified in the current statute do not reflect current research in the field and 17-A M.R.S. §257 should be repealed.

Kent Avery  
Chair, Sex Offender Management and Risk Assessment Advisory Commission

## Orbeton, Jane

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**From:** Black, Anna <Anna.Black@maine.gov>  
**Sent:** Wednesday, March 31, 2021 1:22 PM  
**To:** Orbeton, Jane  
**Cc:** Mosher, Tessa  
**Subject:** RE: Information requests for LD 536 for Criminal Justice Committee

**This message originates from outside the Maine Legislature.**

Hi Jane-

1. With regard to unclaimed property, could you please explain the process that the Treasurer's Office undertakes to locate the rightful owner?  
N/A
2. Are there procedures that the Treasurer's Office could suggest to the Department of Corrections to enable them to locate the rightful owners of court ordered restitution whom they cannot locate using current procedures?  
N/A

3. What procedures does the Office of Victim Services undertake to locate the rightful owner of court-ordered restitution?

It's important to note the MDOC wants victims to receive their court-ordered restitution. To help ensure victims receive their funds, MDOC's Office of Victim Services (OVS) does the following:

- All restitution checks are mailed with "return service requested," requesting the USPS to provide a forwarding address if one is on file.
- If a check is returned undeliverable, every attempt is made to locate the victim by:
  - Reaching out to the victim by phone, if there is a phone number on file.
  - Use of Accurant LexisNexis (public records database) to find an updated address/phone number.
  - Requesting information on file for victim from the prosecutor's office.
  - Check history of victim to see if they have recently cashed any checks
  - Continue trying to locate
- The Treasury sends MDOC a list of those checks that were not cashed/deposited after 180 days. When MDOC receives that list, OVS sends written communication to the victim notifying them of them of the void check and provides info on how to have the check reissued.
- If a victim is unable to be located, MDOC's OVS follows Title 17-A §2009 which states:

"If the location of a victim cannot, with due diligence, be ascertained, the money collected as restitution must be forwarded to the Treasurer of State to be handled as unclaimed property."
- In the event the victim is deceased, the MDOC follows Title 17-A §2008 which states:

"An offender's obligation to pay restitution is not affected by the death of the victim to whom the restitution is due. The money collected as restitution must be forwarded to the estate of the victim."

The OVS then:

- Confirms death, typically through public records.
- Searches records to obtain contact information for a representative of estate, or related information.
- If representative is located, OVS contacts the person to explain that restitution is due to the estate and will be forwarded to them.
- Checks with the prosecutor's office if they have any information on the deceased or their family.



- Attempts to locate any survivors listed in obituary via an Accurant Search

4. Are there additional or different procedures that the Office of Victim Services believes could be undertaken to locate the rightful owners?

The MDOC is not aware of other options beyond what's been described to identifying the rightful owner of court-order restitution. We are open to considering other ideas.

We like the idea Treasurer Beck proposed and will follow up with his office.

5. Assuming a change in the law, could the Office of Victim Services apply unclaimed restitution to use for children of incarcerated persons?

It is certainly possible to propose legislation to change where unclaimed victim restitution funds go. Right now, these funds to the Treasury and are treated the same as other unclaimed property. Statute could be changed to divert from the Treasury to say, the Victims Compensation Fund (Title 5, chapter 3360-A), for which there is already an infrastructure and a process. Another possibility would be the Elder Victims Restitution Fund (Title 34-A section 1214-A). Either of these would be more in the spirit of using the funds for their intended purpose of helping victims. MDOC doesn't have the staffing or infrastructure to go about identifying and distributing funds to the children of incarcerated individuals, or even managing intricacies like, verification, intended use and enforcement, application and notification procedures, etc.

6. What percentage of victims ask for and get notification of the release of a person convicted of a crime?

- An average of 30% of residents have victim notification requests associated with their case.
- 165 victims submitted Victim Notification Requests in 2020.
- 2,314 victim contacts were made in 2020 (in accordance with the victim notification statute).
- 2,033 contacts with victims and collateral sources were made in order to assist crime victims with the distribution of the funds owed them, regardless of whether they have asked for notification of release.

7. What process does the Office of Victim Services use to stay in touch with victims who have requested notification?

MDOC notifies victims according to the victim notification statute. When the MDOC is in possession of a victim notification request a letter is sent that includes information about the Office of Victim Services and provides the projected earliest release date of the resident. Depending on the case, MDOC may send multiple notifications (according to statute) from initial incarceration until the release and after according to the services requested by the victim. In addition to the statute regarding notification, MDOC policies may require victim notification. Things like Supervised Community Confinement investigations, restitution, furlough investigations, safety planning, and harassment are example of reasons MDOC's OVS may have additional contact with victims. The OVS also provides training and education to stakeholders in the community in order to increase awareness of the services offered by the MDOC OVS.

**From:** Orbeton, Jane <Jane.Orbeton@legislature.maine.gov>

**Sent:** Monday, March 29, 2021 6:30 PM

**To:** Mosher, Tessa <Tessa.Mosher@maine.gov>; Beck, Henry E.M <Henry.E.M.Beck@maine.gov>

**Cc:** Black, Anna <Anna.Black@maine.gov>; Legislature: Committee on Criminal Justice and Public Safety <CJPSMembers@legislature.maine.gov>; loisgalgayreckitt@gmail.com; dancostain@gmail.com; Rep Warren (home) <repcharlottewarren@gmail.com>; Senator Deschambault (home) <susan.deschambault@gmail.com>

**Subject:** Information requests for LD 536 for Criminal Justice Committee

Hello, Treasurer Henry Beck, Victim Advocate Tessa Mosher,

Today the Criminal Justice and Public Safety Committee worked on LD 536 and continued the work session. Before the next work session, the date of which has not been scheduled yet, the committee has asked if you might provide information from the Office of the State Treasurer and the Office of Victim Services in the Department of Corrections. I will list the questions asked by the committee:

1. With regard to unclaimed property, could you please explain the process that the Treasurer's Office undertakes to locate the rightful owner?
2. Are there procedures that the Treasurer's Office could suggest to the Department of Corrections to enable them to locate the rightful owners of court ordered restitution whom they cannot locate using current procedures?
3. What procedures does the Office of Victim Services undertake to locate the rightful owner of court-ordered restitution?
4. Are there additional or different procedures that the Office of Victim Services believes could be undertaken to locate the rightful owners?
5. Assuming a change in the law, could the Office of Victim Services apply unclaimed restitution to use for children of incarcerated persons?
6. What percentage of victims ask for and get notification of the release of a person convicted of a crime?
7. What process does the Office of Victim Services use to stay in touch with victims who have requested notification?

Thank you.

Jane

Jane Orbeton  
Office of Policy and Legal Analysis  
207-287-1584

## Orbeton, Jane

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**From:** Maeghan Maloney <mmaloney@kennebecda.com>  
**Sent:** Thursday, April 1, 2021 5:12 PM  
**To:** Orbeton, Jane  
**Subject:** Fw: Drug testing restitution  
**Attachments:** Xerox Scan\_04012021141834.PDF

This message originates from outside the Maine Legislature.

Jane,

Here are Somerset's figures for drug testing where we have sought restitution. I believe you requested this information for the committee.

Thank you,  
Maeghan

*Maeghan Maloney  
District Attorney  
Kennebec and Somerset Counties*

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**From:** Ashley L. Higgins <Ashley.Higgins@somersetcounty-me.org>  
**Sent:** Thursday, April 1, 2021 2:42 PM  
**To:** Maeghan Maloney <mmaloney@kennebecda.com>  
**Subject:** Drug testing restitution

Here is all of what Somerset has sent.

Ashley Higgins  
Restitution/Discovery Secretary  
Somerset District Attorney's Office

## Somerset County Restitution Find Report All Transactions

Ty...	Date	Num	Name	Memo	Clr	Amount	Balance
Ch...	09/19/2017	13296	Maine Drug Enforce...	State vs. Jessica Rys, CR-16-15...	X	-30.00	-30.00
Ch...	07/26/2017	13129	Maine Drug Enforce...	Jamie Charity, CR-15-548	X	-244.00	-274.00
Ch...	06/29/2017	13091	Maine Drug Enforce...	Restitution - Jamie Charity, CR-1...	X	-116.00	-390.00
Ch...	03/13/2017	12853	Maine Drug Enforce...	Restitution - Allisha Savage CR...	X	-130.00	-520.00
Ch...	12/29/2016	12775	Maine Drug Enforce...	Restitution - Roger Gingras, CR...	X	-42.93	-562.93
Ch...	12/16/2016	12729	Maine Drug Enforce...	Restitution - Cory Tasker, CR-07...	X	-465.00	-1,027.93
Ch...	11/17/2016	12679	Maine Drug Enforce...	Restitution - Kyle Green, CR-14...	X	-243.70	-1,271.63
Ch...	10/07/2016	12581	Maine Drug Enforce...	Restitution - Susan Quimby, CR...	X	-169.97	-1,441.60
Ch...	10/07/2016	12582	Maine Drug Enforce...	Restitution - Chad Nelson, CR-1...	X	-150.00	-1,591.60
Ch...	07/03/2015	12227	Maine Drug Enforce...	Restitution - Cory Tasker, CR-07...	X	-483.00	-2,074.60
Ch...	04/24/2014	11856	Maine Drug Enforce...	Cory Tasker CR-07-356	X	-480.00	-2,554.60
Ch...	04/04/2013	11473	Maine Drug Enforce...	Cory Tasker CR-07-356	X	-215.00	-2,769.60
Ch...	03/18/2013	11455	Maine Drug Enforce...	Ahmed Shaour CR-09-255	X	-425.00	-3,194.60
Ch...	12/04/2012	11309	Maine Drug Enforce...	Jeremy Southard CR-11-232	X	-120.00	-3,314.60
Ch...	05/02/2012	11073	Maine Drug Enforce...	Ryan Schinzel CR-10-485	X	-100.00	-3,414.60
Ch...	04/21/2011	10574	Maine Drug Enforce...	Donald Bush Restitution	X	-200.00	-3,614.60
Ch...	04/21/2011	10594	Maine Drug Enforce...	Adam Friend Restitution	X	-1,075.00	-4,689.60
Ch...	01/15/2010	9938	Maine Drug Enforce...	Gina Clark - restitution	X	-60.00	-4,749.60
<b>Total</b>						<b>-4,749.60</b>	<b>-4,749.60</b>

## Orbeton, Jane

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**From:** Beck, Henry E.M <Henry.E.M.Beck@maine.gov>  
**Sent:** Tuesday, March 30, 2021 12:14 PM  
**To:** Orbeton, Jane; Mosher, Tessa  
**Cc:** Black, Anna; loisgalgayreckitt@gmail.com; dancostain@gmail.com; Rep Warren (home); Senator Deschambault (home); Olson, Gregory; Chetkauskas, Jeff  
**Subject:** RE: Information requests for LD 536 for Criminal Justice Committee

**This message originates from outside the Maine Legislature.**

Ms. Orbeton:

Please see below. I'm Ccing Chairs, Rep. Costain and agency staff. I'll allow you to forward to full committee/repackage. Thank you.

1. With regard to unclaimed property, could you please explain the process that the Treasurer's Office undertakes to locate the rightful owner? *We engage in general outreach that includes website database maintenance, Legislative list engagement, Facebook ads, media appearances (such as an annual telethon on WGME 13) and recently, radio ads. Relevant to this issue, we are constantly seeking ways to cross-reference our unclaimed property database with pre-existing state databases and then sending unclaimed property without requiring a claim by owners. For example, we cross-referenced our database built for the Property Tax Relief Fund which had recent and accurate names and addresses of Maine homeowners with unclaimed the property database and automatically sent 18,000 claims in the last 2 years. We recently entered into a Memorandum of Understanding (MOU) with Maine Revenue Services to cross-reference certain taxpayers with our unclaimed property database. Federal law and privacy law sometimes complicates our access to other government databases.*

*Like any entity engaged in marketing, we are always looking for fresh strategies and new tactics.*

2. Are there procedures that the Treasurer's Office could suggest to the Department of Corrections to enable them to locate the rightful owners of court ordered restitution whom they cannot locate using current procedures? *If DOC maintains a list of those owed restitution and DOC has sufficient confidence in the list's accuracy with regard to names and addresses, it is possible we can enter into an MOU with DOC to automatically send any unclaimed property to accurate names and addresses. A search of our database reveals \$129,372 in potential claims related to unclaimed restitution. Also, the Maine Department of Corrections reports hundreds more uncashed checks from the State's held bank account for restitution payments which become stale dated. We note that the Treasurer has discretion to remove names from the unclaimed property database for searching at the request of owners because of privacy or safety concerns.*

3. What procedures does the Office of Victim Services undertake to locate the rightful owner of court-ordered restitution?

4. Are there additional or different procedures that the Office of Victim Services believes could be undertaken to locate the rightful owners? *The Treasurer's Office stands ready to assist.*

5. Assuming a change in the law, could the Office of Victim Services apply unclaimed restitution to use for children of incarcerated persons? *Assuming a change in law to allow for this method of claiming, the Treasurer, as Administrator of the Unclaimed Property Fund, will require a sufficient showing of ownership and relationship. We would likely work with DOC to discuss specific forms or methods.*

6. What percentage of victims ask for and get notification of the release of a person convicted of a crime?

7. What process does the Office of Victim Services use to stay in touch with victims who have requested notification?

## Orbeton, Jane

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**From:** Chetkauskas, Jeff <Jeff.Chetkauskas@maine.gov>  
**Sent:** Wednesday, March 31, 2021 3:58 PM  
**To:** Beck, Henry E.M; Orbeton, Jane; Mosher, Tessa  
**Cc:** Black, Anna; Olson, Gregory  
**Subject:** RE: Information requests for LD 536 for Criminal Justice Committee

This message originates from outside the Maine Legislature.

That would be correct. All property held by governments (local/state/federal) have a one year dormancy period.

Thank you,

*Jeff Chetkauskas*

Phone: (207) 624-7476  
Fax: (207) 287-2367  
Office of the State Treasurer  
39 State House Station  
Augusta, ME 04333-0039

[@maineunclaimedproperty](#) –Maine Unclaimed Property page on Facebook. Click the link to view, like and receive important reminders to search when new property is added to the database or receive press releases for local scam warnings. We also encourage spreading the word to friends and family so they can search for their missing property.

**From:** Beck, Henry E.M <Henry.E.M.Beck@maine.gov>  
**Sent:** Wednesday, March 31, 2021 3:55 PM  
**To:** Orbeton, Jane <jane.orbeton@legislature.maine.gov>; Mosher, Tessa <Tessa.Mosher@maine.gov>  
**Cc:** Black, Anna <Anna.Black@maine.gov>; Olson, Gregory <Gregory.Olson@maine.gov>; Chetkauskas, Jeff <Jeff.Chetkauskas@maine.gov>  
**Subject:** RE: Information requests for LD 536 for Criminal Justice Committee

<https://legislature.maine.gov/statutes/33/title33sec2061.html>

This is the general framework. Jeff, can you pinpoint where victim restitution specifically would fall? Subsection 10?

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**From:** Orbeton, Jane <Jane.Orbeton@legislature.maine.gov>  
**Sent:** Wednesday, March 31, 2021 3:49 PM  
**To:** Beck, Henry E.M <Henry.E.M.Beck@maine.gov>; Mosher, Tessa <Tessa.Mosher@maine.gov>

**Title 33: PROPERTY**  
**Chapter 45: MAINE REVISED UNCLAIMED PROPERTY ACT**  
Subchapter 2: PRESUMPTION OF ABANDONMENT

## **§2061. When property presumed abandoned**

Subject to [section 2070 \(../33/title33sec2070.html\)](#), the following property is presumed abandoned if it is unclaimed by the apparent owner during the period specified: [PL 2019, c. 498, §22 (NEW).]

- 1. Traveler's check.** A traveler's check, 15 years after issuance;  
[PL 2019, c. 498, §22 (NEW).]
- 2. Money order.** A money order, 7 years after issuance;  
[PL 2019, c. 498, §22 (NEW).]
- 3. State or municipal bond.** A state or municipal bond, bearer bond or original issue discount bond, 3 years after the date the bond matures or is called or the obligation to pay the principal of the bond arises, whichever is earlier;  
[PL 2019, c. 498, §22 (NEW).]
- 4. Debt of a business association.** A debt of a business association, 3 years after the obligation to pay arises;  
[PL 2019, c. 498, §22 (NEW).]
- 5. Payroll card or demand, savings or time deposit.** A payroll card or demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the maturity of the deposit, except that a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;  
[PL 2019, c. 498, §22 (NEW).]
- 6. Money or credit owed.** Money or a credit owed to a customer as a result of a retail business transaction, 3 years after the obligation arose;  
[PL 2019, c. 498, §22 (NEW).]
- 7. Amount owed on insurance policy or annuity contract.** An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated,

3 years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of the death of the insured or annuitant:

A. With respect to an amount owed on a life or endowment insurance policy, 3 years after the earlier of the date:

(1) The insurance company has knowledge of the death of the insured; and

(2) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and [PL 2019, c. 498, §22 (NEW).]

B. With respect to an amount owed on an annuity contract, 3 years after the date the insurance company has knowledge of the death of the annuitant; [PL 2019, c. 498, §22 (NEW).]

[PL 2019, c. 498, §22 (NEW).]

**8. Distributable property.** Property distributable by a business association in the course of dissolution, one year after the property becomes distributable;

[PL 2019, c. 498, §22 (NEW).]

**9. Property held by a court.** Property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;

[PL 2019, c. 498, §22 (NEW).]

**10. Property held by a government.** Property held by a government or governmental subdivision, agency or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;

[PL 2019, c. 498, §22 (NEW).]

**11. Wages, commissions, bonuses or reimbursements.** Wages, commissions, bonuses or reimbursements to which an employee is entitled or other compensation for personal services, one year after the amount becomes payable;

[PL 2019, c. 498, §22 (NEW).]

**12. Deposit or refund owed by a utility.** A deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable;

[PL 2019, c. 498, §22 (NEW).]

**13. Prearranged funeral or burial plan.** Notwithstanding subsection 5, property contained in a prearranged funeral or burial plan described in Title 32, section 1401 ([./32/title32sec1401.html](#)), including deposits containing funds from such a plan, 3 years after the death of a person on whose behalf funds were paid into the plan;

[PL 2019, c. 498, §22 (NEW).]



**14. Nonactivated stored-value obligation or electronic payment medium.** Funds represented by a nonactivated stored-value obligation or other nonactivated electronic payment medium that require activation for use, one year after the funds would have otherwise first been available to the owner; and

[PL 2019, c. 498, §22 (NEW).]

**15. Property not specified.** Property not specified in this section or sections 2062 to 2072, including funds in a lawyer's trust account, 3 years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises, whichever is earlier.

[PL 2019, c. 571, §5 (AMD).]

#### SECTION HISTORY

PL 2019, c. 498, §22 (NEW). PL 2019, c. 571, §5 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.  
If you need legal advice, please consult a qualified attorney.

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