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 Require Probation Officers To Set a Schedule for Restitution Payment

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

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

B. To make restitution pursuant to chapter 54 to each victim of the convicted person's crime, or to the county where the offense is prosecuted if the identity of the victim cannot be ascertained or if the victim voluntarily refuses the restitution. If the court orders as a condition of probation that the convicted person forfeit and pay a specific amount of restitution, that order, as a matter of law, also constitutes the imposition of restitution pursuant to chapter 54 as a sentencing alternative and no additional order in this regard is necessary. 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 defendants in all cases in which restitution is ordered.

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

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

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

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

An offender is responsible for paying any restitution outstanding at the time the term of commitment to the Department of Corrections or period of probation is completed. An offender who has complied with the time and method of payment of monetary compensation determined by the Department of Corrections during the period of probation shall continue to make payments to the Department of Corrections in accordance with that payment schedule unless modified by the court pursuant to section 1328A or 1329. An offender who has not complied with the time and method of payment of monetary compensation determined by the Department of Corrections during the period of probation must be returned to the court for further disposition pursuant to section 1329. An offender who is unconditionally released and discharged from institutional confinement with the Department of Corrections upon the expiration of the sentence must, upon application of the office of the attorney for the State, be returned to the court for specification by the court of the time and method of payment of monetary compensation, which may be ordered paid to the office of the attorney for the State who prosecuted the case or to the clerk of the court. Prior to the offender's release and discharge, the Department of Corrections shall provide the office of the attorney for the State who prosecuted the case written notice as to the amount of restitution outstanding.

An income withholding order issued pursuant to section 1326B remains 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.

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.