

Title 17-A: MAINE CRIMINAL CODE
Chapter 54-B: COUNTY JAIL REIMBURSEMENT

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§1341. ASSESSMENT OF REIMBURSEMENT FEE AGAINST PRISONERS

1. Assessment. When a person is sentenced to incarceration in a county jail, the sentencing court shall consider and may assess as part of the sentence a reimbursement fee to help defray the expenses of the offender's room and board. The fee may not exceed the cost of incarcerating the offender or \$80 per day, whichever is less. Any reimbursement fee assessed must be collected by the county treasurer of the county in which the offender is incarcerated, paid into the treasury of that county and credited to the county responsible for paying for the incarceration of the offender.

[1997, c. 88, §1 (AMD) .]

2. Evidence. The court, in determining whether a reimbursement fee as set out in subsection 1 is to be assessed and in establishing the amount of that fee, shall consider evidence relevant to the offender's ability to pay that fee, including, but not limited to, the factors set forth in section 1325, subsection 2, paragraph D, subparagraphs (1) to (5). The court shall not consider as evidence the following:

A. Joint ownership, if any, that the offender may have in real property; [1985, c. 752, §1 (NEW) .]

B. Joint ownership, if any, that the offender may have in any assets, earnings or other sources of income; and [1985, c. 752, §1 (NEW) .]

C. The income, assets, earnings or other property, both real and personal, owned by the offender's spouse or family. [1985, c. 752, §1 (NEW) .]

[1985, c. 752, §1 (NEW) .]

3. Amount of fee. After considering all relevant evidence on the issue of the offender's ability to pay under subsection 2, the court may enter, as part of its sentence, a reimbursement fee that must be paid by the offender for incarceration in the county jail. The fee must bear a reasonable relationship to the offender's ability to pay. Upon petition by the offender, the amount may be modified to reflect any changes in the financial status of the offender.

[2005, c. 502, §1 (AMD) .]

4. Timing of fee. If an offender is sentenced to pay a reimbursement fee, the court may grant permission for the payment to be made within a specified time or in specified installments. If such permission is not contained in the sentence, the reimbursement fee is payable immediately.

[2005, c. 502, §1 (NEW) .]

5. Default. An offender who has been sentenced to pay a reimbursement fee and who has defaulted in payment of the fee must be returned to court for further disposition.

A probation officer who knows of a default in payment of a reimbursement fee by an offender shall report the default to the office of the attorney for the State or the attorney for the county. If the reimbursement fee was a condition of probation, the attorney for the State or the attorney for the county may file a motion to enforce

payment of the reimbursement fee or, with the written consent of the probation officer, a motion to revoke probation under section 1205. If the reimbursement fee was not a condition of probation, the attorney for the State or the attorney for the county may file a motion to enforce payment of the reimbursement fee.

[2005, c. 502, §1 (NEW) .]

6. Motion to enforce payment of reimbursement fee. Either the attorney for the State, the attorney for the county or the court may initiate a motion to enforce payment of a reimbursement fee. 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 to make 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 jail reimbursement fee 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 jail reimbursement fee or 6 months, whichever is shorter. An offender committed for nonpayment of a reimbursement fee is given credit toward the payment of a reimbursement fee 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 has been detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any reimbursement fee remaining after receiving credit for confinement and detention. A default on the remaining reimbursement fee is also governed by this section. [2005, c. 502, §1 (NEW) .]

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. [2005, c. 502, §1 (NEW) .]

C. The confinement ordered under this subsection must be nonconcurrent with any judgment of conviction involving a term of imprisonment. [2005, c. 502, §1 (NEW) .]

[2005, c. 502, §1 (NEW) .]

SECTION HISTORY

1985, c. 752, §1 (NEW). 1989, c. 375, (AMD). 1997, c. 88, §1 (AMD).

2005, c. 502, §1 (AMD).

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