

# Title 17-A: MAINE CRIMINAL CODE

## Chapter 54: RESTITUTION

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**Maine Revised Statutes**  
**Title 17-A: MAINE CRIMINAL CODE**  
**Chapter 54: RESTITUTION**

**§1321. PURPOSE**

The Legislature finds and declares that the victims of crimes often suffer losses through no fault of their own and for which there is no compensation. It also finds that repayment, in whole or in part, by the offender to the victim of his crime can operate to rehabilitate the offender in certain instances. It is the purpose of this chapter to encourage the compensation of victims by the person most responsible for the loss incurred by the victim, the offender. Restitution by the offender can serve to reinforce the offender's sense of responsibility for the offense, to provide him the opportunity to pay his debt to society and to his victim in a constructive manner, and to ease the burden of the victim as a result of the criminal conduct. [1977, c. 455, §3 (NEW).]

The Legislature recognizes that a crime is an offense against society as a whole, not only against the victim of the crime, and that restitution for victims is therefore ancillary to the central objectives of the criminal law. It intends restitution to be applied only when other purposes of sentencing can be appropriately served. [1977, c. 455, §3 (NEW).]

The Legislature does not intend the use of restitution to result in preferential treatment for offenders with substantial financial resources. [1977, c. 455, §3 (NEW).]

SECTION HISTORY

1977, c. 455, §3 (NEW).

**§1322. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [1977, c. 455, §3 (NEW).]

**1. Collateral source.** "Collateral source" means a source of benefits or advantages for economic loss resulting from a crime, which the victim has received, or which is readily available to him from:

A. The Government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of 2 or more states unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this chapter; [1977, c. 455, §3 (NEW).]

B. Social security, Medicare and Medicaid; [1977, c. 455, §3 (NEW).]

C. Workers' compensation; [1987, c. 769, Pt. A, §56 (AMD).]

D. Wage continuation programs of any employer; [1977, c. 455, §3 (NEW).]

E. Proceeds of a contract of insurance payable to the victim for loss which he sustained because of the criminal conduct; or [1977, c. 455, §3 (NEW).]

F. A contract providing prepaid hospital and other health care services or benefits for disability. [1977, c. 455, §3 (NEW).]

[ 1987, c. 769, Pt. A, §56 (AMD) .]

**2. Dependent.** "Dependent" means a natural person who is wholly or partially dependent upon the victim for care or support and includes a child of the victim born after his death.

[ 1977, c. 455, §3 (NEW) .]

**3. Economic loss.** "Economic loss" includes economic detriment consisting of environmental clean-up expense, property loss, allowable expense, work loss, replacement services loss and, if injury causes death, dependent's economic loss and dependent's replacement services loss. Noneconomic detriment is not loss. Economic detriment is loss although caused by pain and suffering or physical impairment. "Economic loss" includes expenses of an emergency response by any public agency and critical investigation expenses.

A. "Allowable expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, counseling services and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. The term includes reasonable and customary charges incurred for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required. [1993, c. 305, §1 (RPR).]

A-1. "Critical investigation expense" means a necessary expense incurred by a government or by a victim while investigating or prosecuting suspected criminal conduct. "Critical investigation expense" is limited to the cost of an audit or other financial analysis when that analysis is necessary to determine whether and to what extent a victim has suffered financial harm from criminal conduct by an employee or other person in a position of trust and the cost of analysis of suspected illegal drugs. [2005, c. 447, §3 (NEW).]

B. "Dependent's economic loss" means loss after a decedent's death of contributions of things of economic value to the decedent's dependents, not including services they would have received from the decedent if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death. [1993, c. 305, §1 (RPR).]

C. "Dependent's replacement loss" means loss reasonably incurred by dependents after a decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of the decedent's death and not subtracted in calculating dependent's economic loss. [1993, c. 305, §1 (RPR).]

C-1. "Environmental clean-up expense" means any reasonable expense incurred for products and services needed to clean up any harm or damage caused to the environment, including any harm or damage caused by chemicals; to restore the environment to its previous condition prior to any harm or damage; and to properly dispose of chemicals and other materials, including those used in the manufacture of scheduled drugs in violation of chapter 45. [1993, c. 305, §1 (RPR).]

C-2. "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, including a response to a suspected unlawful methamphetamine laboratory under section 1124, but only includes those costs directly arising because of the response to the particular incident. Reasonable costs include the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, as well as the compensation for the personnel, including trained laboratory personnel, responding to the incident. "Public agency" means the State or any county, municipality, district or public authority located, in whole or in part, within this State that provides or may provide laboratory services or police, firefighting, ambulance or other emergency services. [2015, c. 346, §8 (AMD).]

D. "Property loss" means the value of property taken from the victim, or of property destroyed or otherwise broken or harmed. A property loss includes the value of taxes or other obligations due to the government that have not been paid. "Property loss" also includes, in cases involving a violation of chapter 45, the value of money or other consideration given or offered in exchange for scheduled drugs by a law enforcement officer or another at the direction of a law enforcement officer that are not, in fact, recovered by the State at the time of sentencing, regardless of whether other money or items of value are

sought, acquired or forfeited pursuant to Title 15, chapter 515. In cases involving a violation of chapter 45, the court must make a finding that the property loss is specifically related to that case. [1993, c. 305, §1 (RPR).]

E. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of the injured person or the injured person's family, if the injured person had not been injured. [1993, c. 305, §1 (RPR).]

F. "Work loss" means loss of income from work the injured person would have performed if the injured person had not been injured and expenses reasonably incurred by the injured person in obtaining services in lieu of those the injured person would have performed for income, reduced by any income for substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work the injured person was capable of performing but unreasonably failed to undertake. For a victim of a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C, "work loss" includes pay or benefits unfairly or illegally withheld from the victim by the offender or any unfair labor agreement under Title 26, section 629, as defined by rules adopted by the Department of Labor. [2007, c. 684, Pt. D, §1 (AMD); 2007, c. 684, Pt. D, §3 (AFF).]

[ 2015, c. 346, §8 (AMD) .]

**4. Noneconomic detriment.** "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment and other nonpecuniary damage.

[ 1977, c. 455, §3 (NEW) .]

**5. Offender.** "Offender" means any natural person or organization convicted of a crime.

[ 1987, c. 157, §3 (AMD) .]

**6. Restitution.** "Restitution" means:

A. Monetary reimbursement, in whole or in part, for economic loss; [1977, c. 455, §3 (NEW) .]

B. Work or service provided to a victim for economic loss; or [1977, c. 455, §3 (NEW) .]

C. Any combination of service or monetary reimbursement by an offender to the victim of his crime or to other authorized claimants, either directly or indirectly. [1977, c. 455, §3 (NEW) .]

[ 1977, c. 455, §3 (NEW) .]

**7. Victim.** "Victim" means a government that suffers economic loss or a person who suffers personal injury, death or economic loss as a result of a crime or the good faith effort of any person to prevent a crime.

[ 1987, c. 157, §3 (AMD) .]

#### SECTION HISTORY

1977, c. 455, §3 (NEW). 1987, c. 157, §3 (AMD). 1987, c. 769, §A56 (AMD). 1989, c. 188, (AMD). 1989, c. 872, §5 (AMD). 1989, c. 924, §13 (AMD). 1991, c. 394, (AMD). 1993, c. 305, §1 (AMD). 2005, c. 447, §§2,3 (AMD). 2007, c. 684, Pt. D, §1 (AMD). 2007, c. 684, Pt. D, §3 (AFF). 2015, c. 346, §8 (AMD).

## §1323. MANDATORY CONSIDERATION OF RESTITUTION

**1. Inquiry as to victim's financial loss.** The court shall, whenever practicable, inquire of a prosecutor, law enforcement officer or victim with respect to the extent of the victim's financial loss, and shall order restitution when appropriate. The order for restitution shall designate the amount of restitution to be paid and the person or persons to whom the restitution will be paid.

[ 2005, c. 389, §3 (AMD) .]

**2. Reasons for not imposing restitution.** In any case where the court determines that restitution should not be imposed in accordance with the criteria set forth in section 1325, the court shall state in open court or in writing the reasons for not imposing restitution.

[ 1983, c. 352, §3 (RPR) .]

**3. Restitution required.** In any prosecution for a crime committed prior to the effective date of this chapter, or any amendment to this chapter, the court may, with the consent of the defendant, require the defendant to make restitution in accordance with this chapter as amended.

[ 1987, c. 157, §4 (NEW) .]

### SECTION HISTORY

1977, c. 455, §3 (NEW). 1983, c. 352, §3 (RPR). 1983, c. 793, §1 (AMD).  
1987, c. 157, §4 (AMD). 2005, c. 389, §3 (AMD).

## §1324. AUTHORIZED CLAIMANTS

Restitution may be authorized for: [1977, c. 455, §3 (NEW) .]

**1. Victim.** The victim or a dependent of a deceased victim;

[ 1977, c. 455, §3 (NEW) .]

**2. County.** The county where the offense was prosecuted if the victim voluntarily refuses restitution or if the identity of the victim cannot be ascertained;

[ 1977, c. 455, §3 (NEW) .]

**3. Person providing recovery.** Any person, firm, organization, corporation or government entity which has provided recovery to the victim as a collateral source, but only to the extent that such recovery was actually made; and

[ 1977, c. 455, §3 (NEW) .]

**4. Person acting on behalf of victim.** Any person legally authorized to act on behalf of the victim.

[ 1977, c. 455, §3 (NEW) .]

### SECTION HISTORY

1977, c. 455, §3 (NEW).

## §1325. CRITERIA FOR RESTITUTION

**1. Restitution authorized.** Restitution may be authorized, in whole or in part, as compensation for economic loss. In determining the amount of restitution authorized, the following shall be considered:

- A. The contributory misconduct of the victim; [1977, c. 455, §3 (NEW).]
- B. Failure to report the crime to a law enforcement officer within 72 hours after its occurrence, without good cause for failure to report within that time; and [1977, c. 455, §3 (NEW).]
- C. The present and future financial capacity of the offender to pay restitution. [1997, c. 413, §1 (AMD).]

[ 1997, c. 413, §1 (AMD) . ]

**2. Restitution not authorized.** Restitution shall not be authorized:

- A. To a victim without that victim's consent; [1977, c. 455, §3 (NEW).]
- B. To a victim who is an accomplice of the offender; [1977, c. 455, §3 (NEW).]
- C. To a victim who has otherwise been compensated from a collateral source, but economic loss in excess of the collateral compensation may be authorized; and [1977, c. 455, §3 (NEW).]
- D. When the amount and method of payment of monetary restitution or the performance of service restitution creates an excessive financial hardship on the offender or dependent of the offender. In making this determination, all relevant factors must be considered, including, but not limited to the following:

- (1) The number of the offender's dependents;
- (2) The minimum living expenses of the offender and the offender's dependents;
- (3) The special needs of the offender and the offender's dependents, including necessary travel expense to and from work;
- (4) The offender's present income and potential future earning capacity; and
- (5) The offender's resources, from whatever source. [1997, c. 413, §2 (AMD).]

[ 1997, c. 413, §2 (AMD) . ]

**3. Exception.** The provisions of subsection 2, paragraph D, do not apply to an offender which is an organization.

[ 1987, c. 157, §5 (NEW) . ]

**4. Burdens of proof.** An offender who asserts a present or future incapacity to pay restitution has the burden of proving the incapacity by a preponderance of the evidence. On appeal of a restitution order, the offender has the burden of demonstrating that the incapacity was proven as a matter of law.

[ 1997, c. 413, §3 (NEW) . ]

SECTION HISTORY

1977, c. 455, §3 (NEW). 1987, c. 157, §5 (AMD). 1997, c. 413, §§1-3 (AMD).

**§1326. TIME AND METHOD OF RESTITUTION**  
*(REPEALED)*

SECTION HISTORY

1977, c. 455, §3 (NEW). 1991, c. 90, (AMD). 1991, c. 816, §1 (AMD). 1993, c. 147, §1 (AMD). 1995, c. 502, §F16 (AMD). 1999, c. 790, §D6 (RP).

## §1326-A. TIME AND METHOD OF RESTITUTION

When restitution is authorized, and the offender is not committed to the Department of Corrections and does not receive a sentence that includes a period of probation, the time and method of payment or of the performance of the services must be specified by the court and monetary compensation may be ordered paid to the office of the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the offender is committed to the Department of Corrections or receives a sentence that includes a period of probation, monetary compensation must be paid to the Department of Corrections and the time and method of payment must be determined by the Department of Corrections during the term of commitment or the period of probation unless at the time of sentencing the court has specified the time and method of payment. Once any term of commitment to the Department of Corrections or period of probation is completed and if the restitution ordered has not been paid in full, the offender is subject to the provisions of section 1326-F and, in the event of a default, the provisions of section 1329. The state agency receiving the restitution shall deposit any money received in the account maintained by the Treasurer of State for deposit of state agency funds, from which funds are daily transferred to an investment account and invested. Interest accrued on that money is the property of and accrues to the State for deposit in the General Fund. The agency receiving the restitution shall make the disbursement to the victim or other authorized claimant as soon as possible after the agency receives the money. [2011, c. 464, §23 (AMD).]

### SECTION HISTORY

1999, c. 469, §1 (NEW). 2009, c. 94, §3 (AMD). 2009, c. 608, §12 (AMD). 2011, c. 464, §23 (AMD).

## §1326-B. INCOME WITHHOLDING ORDER

1. When restitution is required of an offender who will not be commencing service of a period of institutional confinement, who does not receive a sentence that includes a period of probation and who is employed, the court shall, at the time of ordering restitution, enter a separate order for income withholding. When restitution is required of an offender who receives a sentence that includes a period of probation and who is employed, upon application of the offender's probation officer, the court shall enter a separate order for income withholding. The withholding order must direct the employer to deduct from all income due and payable to the offender an amount determined pursuant to section 1326-A to meet the offender's restitution obligation. The withholding order must include an instruction to the employer that upon receipt of a copy of the withholding order the employer shall:

- A. Immediately begin to withhold the offender's income when the offender is usually paid; [1999, c. 469, §1 (NEW).]
- B. Send each amount withheld to the agency to which restitution has been ordered to be paid at the address set forth in the order within 7 business days of the withholding; and [1999, c. 469, §1 (NEW).]
- C. Identify each amount sent to the agency by indicating the court's docket number. [1999, c. 469, §1 (NEW).]

[2009, c. 608, §13 (AMD).]

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 1326-F, or until further order of the court.

[2011, c. 464, §24 (AMD).]

### SECTION HISTORY



1999, c. 469, §1 (NEW). 2009, c. 608, §13 (AMD). 2011, c. 464, §24 (AMD).

### **§1326-C. DECEASED VICTIMS**

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. [1999, c. 469, §1 (NEW).]

#### SECTION HISTORY

1999, c. 469, §1 (NEW).

### **§1326-D. VICTIM UNABLE TO BE LOCATED**

If the location of a victim can not, with due diligence, be ascertained, the money collected as restitution must be forwarded to the Treasurer of State to be handled as unclaimed property. [2003, c. 706, Pt. A, §7 (NEW).]

#### SECTION HISTORY

2003, c. 706, §A7 (NEW).

### **§1326-E. JOINT AND SEVERAL ORDER**

If the victim's financial loss has been caused by more than one offender, the order must designate that the restitution is to be paid on a joint and several basis, unless the court specifically determines that one defendant should not equally share the burden. The agency collecting restitution pursuant to a joint and several order may, after the full amount of restitution has been collected and disbursed to the victim, continue to collect payments from an offender who has not paid an equal share of the restitution and may disburse the money collected to any other offender who has paid more than an equal share of the restitution. [2005, c. 389, §4 (NEW).]

#### SECTION HISTORY

2005, c. 389, §4 (NEW).

### **§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 1328-A 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 1326-B 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. [2011, c. 464, §25 (AMD).]

#### SECTION HISTORY

2009, c. 608, §14 (NEW). 2011, c. 464, §25 (AMD).

## §1327. RESTITUTION DEDUCTED FROM JUDGMENT IN CIVIL ACTION

Any restitution ordered and paid shall be deducted from the amount of any judgment awarded in a civil action brought by the victim against the offender based on the same facts. If the restitution ordered and made was work restitution, the reasonable value of the services may be deducted from any such judgment. [1977, c. 455, §3 (NEW).]

### SECTION HISTORY

1977, c. 455, §3 (NEW).

## §1328. POSTCONVICTION RELIEF

If, in any judicial proceeding following conviction, a court issues a final judgment invalidating the conviction, the judgment may include an order that any or all of a restitution payment that the convicted person paid pursuant to the sentence for that conviction be returned to the convicted person. [1997, c. 413, §4 (NEW).]

### 1. Petition.

[ 1997, c. 413, §4 (RP) .]

### 2. Final judgment.

[ 1997, c. 413, §4 (RP) .]

### SECTION HISTORY

1977, c. 455, §3 (NEW). 1997, c. 413, §4 (RPR).

## §1328-A. MODIFICATION OF RESTITUTION

A convicted person who can not make restitution payments in the manner ordered by the court or determined by the Department of Corrections pursuant to section 1326-A shall move the court for a modification of the time or method of payment or service to avoid a default. The court may modify its prior order or the determination of the Department of Corrections to reduce the amount of each installment or to allow additional time for payment or service. [2009, c. 94, §4 (AMD).]

### SECTION HISTORY

1997, c. 413, §5 (NEW). 2009, c. 94, §4 (AMD).

## §1329. DEFAULT

**1. Return to court.** An offender who has been sentenced to make restitution and has defaulted in payment or service thereof shall be returned to court for further disposition.

[ 1981, c. 360, (NEW) .]

**2. Reports.** A probation officer having knowledge of a default in restitution by an offender shall report the default to the office of the attorney for the State. An attorney for the State having knowledge of a default in restitution by an offender shall report the default to the court. If the restitution was a condition of probation,

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

[ 1997, c. 413, §6 (AMD) . ]

**3. Motion to enforce payment of restitution.** Either the attorney for the State or the court may initiate a motion to enforce payment of restitution. 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 restitution 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 restitution or 6 months, whichever is shorter. An offender committed for nonpayment of restitution is given credit toward the payment of restitution 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 restitution remaining after receiving credit for confinement and detention. A default on the remaining restitution is also governed by this section. [1997, c. 413, §7 (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. [1997, c. 413, §7 (NEW). ]

C. The confinement ordered under this subsection must be nonconcurrent with any judgment of conviction involving a term of imprisonment. [1999, c. 367, §7 (NEW). ]

[ 1999, c. 367, §7 (AMD) . ]

**3-A. Forfeiture of bail.** When an offender who has been sentenced to make restitution and has defaulted in payment or service of the restitution is declared in forfeiture of bail in the proceeding brought under this section pursuant to Title 15, section 1094, the obligation and sureties of the defendant must be enforced pursuant to Title 15, section 1094 and the district attorney shall use the proceeds to satisfy the offender's restitution obligation. Any proceeds from the forfeited bail remaining after the offender's restitution obligation has been satisfied must be used in accordance with Title 15, section 224-A, subsection 2.

[ 2007, c. 31, §3 (NEW) . ]

**4. Collection.** Upon any default, execution may be levied and other measures authorized for the collection of unpaid civil judgments may be taken to collect the unpaid restitution. A levy of execution does not discharge an offender confined to a county jail under subsection 3 for unexcused default until the full amount of the restitution has been collected.

[ 1997, c. 413, §7 (NEW) . ]

**5. Organizations.** When restitution is imposed on an organization, the person or persons authorized to make disbursements from the assets of the organization shall pay the restitution from the organization's assets. Failure to do so may subject the person or persons to court action pursuant to this section.

[ 1997, c. 413, §7 (NEW) . ]

6. Payments made pursuant to this section must be made to the same agency to which the restitution was required to be paid under section 1326-A or section 1326-F, except that if the offender is no longer in the custody or under the supervision of the Department of Corrections the payments must be made to the office of the attorney for the State who prosecuted the case or the clerk of the court, as ordered by the court.

[ 2009, c. 608, §15 (NEW) .]

#### SECTION HISTORY

1981, c. 360, (NEW). 1989, c. 502, §D15 (AMD). 1997, c. 413, §§6,7 (AMD). 1999, c. 367, §7 (AMD). 2007, c. 31, §3 (AMD). 2009, c. 608, §15 (AMD).

## §1330. WORK PROGRAM RELEASE; RESTITUTION

**1. Work program; payment of restitution and fines.** A prisoner who has been ordered to pay restitution or fines may not be released pursuant to a work program administered by the Department of Corrections under Title 34-A, section 3035, or a sheriff under Title 30-A, section 1605, or participate in an industry program under Title 34-A, section 1403, subsection 9 or any other program administered by the Department of Corrections or a sheriff by which a prisoner is able to generate money, unless the prisoner consents to pay at least 25% of the prisoner's gross weekly wages or other money generated to the victim or the court until such time as full restitution has been made or the fine is paid in full. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's wages or other money generated agreed to as payment of restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court that portion of the prisoner's wages or other money generated agreed to as payment of fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution cannot be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds.

[ 2005, c. 506, §2 (AMD) .]

**2. Payment of restitution or fines from other sources.** A prisoner, other than one addressed by subsection 1, who receives money, from any source, shall pay 25% of that money to any victim or the court if the court has ordered that restitution or a fine be paid. The chief administrative officer of the correctional facility in which the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's money ordered as restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court that portion of the prisoner's money ordered as fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution can not be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds. Money received by the prisoner and directly deposited into a telephone call account established by the Department of Corrections for the sole purpose of paying for use of the department's client telephone system is not subject to this subsection, except that 25% of any money received by the prisoner and transferred from the telephone call account to the department's general client account at the time of the prisoner's discharge or transfer to supervised community confinement must be collected and disbursed as provided in this subsection.

[ 2005, c. 506, §3 (AMD) .]

**3. Restitution; absolute.** The requirements imposed on a prisoner by this section to pay restitution and fines during incarceration apply regardless of whether:

- A. The court order to pay restitution or fines constitutes a sentence or is imposed as a condition of probation; [2011, c. 464, §26 (NEW).]
- B. Payment has been stayed in the court order; [2011, c. 464, §26 (NEW).]

C. The court has specified a time and method of payment pursuant to section 1303, subsection 1 or section 1326-A; or [2011, c. 464, §26 (NEW).]

D. The person's incarceration resulted from a revocation of probation. [2011, c. 464, §26 (NEW).]

[ 2011, c. 464, §26 (AMD) .]

#### SECTION HISTORY

1983, c. 352, §4 (NEW). 1983, c. 793, §2 (AMD). 1987, c. 737, §§C32,C106 (AMD). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,C10 (AMD). 1995, c. 534, §1 (AMD). 1997, c. 358, §§1,2 (AMD). 1997, c. 752, §30 (AMD). 1999, c. 469, §§2,3 (AMD). 2005, c. 506, §§2,3 (AMD). 2011, c. 464, §26 (AMD).

### §1330-A. WAIVER OF ISSUE OF EXCESSIVENESS

If a defendant at the time of sentencing has consented to the imposition by the sentencing court of a specific amount of restitution, the defendant is thereafter precluded from seeking to attack the legality or propriety of the amount of restitution ordered if that amount does not exceed the specific amount consented to by the defendant. [1997, c. 30, §1 (NEW).]

#### SECTION HISTORY

1997, c. 30, §1 (NEW).

### §1330-B. RESTITUTION FOR BENEFIT OF VICTIM

When compensation is awarded from the Victims' Compensation Fund pursuant to Title 5, chapter 316-A, the amount of any restitution ordered to be paid to or for the benefit of the victim and collected as part of a sentence imposed must be paid by the agency collecting the restitution in an amount not to exceed the amount of the payments from the fund, directly to the fund if, when added to the payments from the fund, the restitution exceeds the victim's actual loss. [2003, c. 243, §6 (NEW).]

#### SECTION HISTORY

2003, c. 243, §6 (NEW).

### §1330-C. CIVIL REMEDY UPON DEFAULT

Upon the request of the attorney for the State or a person entitled to restitution under an order of restitution, the clerk shall enter the order of restitution in the same manner as a judgment in a civil action. When entered under this section, the order of restitution is deemed to be a money judgment. Upon default, the order to make restitution is enforceable in accordance with Title 14, chapter 502 by any person entitled to restitution under the order. [2015, c. 109, §1 (NEW).]

#### SECTION HISTORY

2015, c. 109, §1 (NEW).

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