

POLICY TITLE: PAYMENT OF RESTITUTION OR FINES		PAGE <u>1</u> OF <u>6</u>
POLICY NUMBER: 6.6		
CHAPTER: 6. VICTIM SERVICES		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by: <u><i>Martin Magnusson</i></u> Signature of Commissioner	PROFESSIONAL STANDARDS: See Section VII
	EFFECTIVE DATE: July 5, 1988	LATEST REVISION: March 27, 2006

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 17-A M.R.S.A. Section 1330 and 34-A M.R.S.A. Sections 3035, 3809-A and 4111.

II. APPLICABILITY

All Adult and Juvenile Correctional Facilities and Adult and Juvenile Community Corrections.

III. POLICY

This policy is implemented by the Department of Corrections, in the case of adult prisoners, to assure compliance with 17-A M.R.S.A. Section 1330 and, in the case of juvenile clients, in its role as guardian. This policy applies to all prisoners and juvenile clients who have court ordered restitution, whether as a separate sentence or disposition, or as a condition of probation. It also applies to all prisoners and juvenile clients who have a court ordered fine.

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V. ATTACHMENTS

Attachment A: Initial Placement Form

Attachment B: Juvenile Initial Placement Form

VI. PROCEDURES

Procedure A: Identification of Prisoners and Juvenile Clients with Court Ordered Restitution or Fines

1. The Classification staff at each facility shall review, within thirty (30) days of a prisoner's or juvenile client's commitment to the Department, the judgment and commitment order(s) and conditions of probation for each prisoner or juvenile client at the facility to determine if the court has ordered the payment of restitution or a fine. The staff shall also review the Initial Placement Form or Juvenile Initial Placement Form and, where appropriate, other information provided by Adult or Juvenile Community Corrections.
2. When completing the Initial Placement Form (Attachment A) or Juvenile Initial Placement Form (Attachment B), the Probation Officer determining the placement shall complete the Restitution section of the form advising the receiving facility of whether or not restitution has been ordered, any applicable Docket Number, and restitution amount (if any).
3. If restitution has been ordered, but a specific restitution amount is not known at the time of the Initial Placement, the Probation Officer shall provide the restitution information listed above as soon as it is known.
4. When completing the Initial Placement Form or Juvenile Initial Placement Form, the Probation Officer shall complete the Fine section of the form advising the receiving facility of whether or not a fine has been ordered, any applicable Docket Number, and fine amount (if any). An assessment under 5 M.R.S.A. Section 3360-I is considered part of the fine.
5. In the case of a prisoner or juvenile client who receives a new judgment and commitment or a new condition of probation while incarcerated, the Classification staff at the facility shall review the documents, within thirty (30) days of their receipt from the court, to determine if the court has ordered the payment of restitution or a fine.
6. In all cases in which a prisoner or juvenile client has an active docket number (current or consecutive sentence or disposition at the time of commitment to the Department) with court ordered restitution, the Classification staff shall so inform the facility Business Office, and the collection of funds for restitution shall then commence.

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7. In all cases in which a prisoner or juvenile client has an active docket number (current or consecutive sentence or disposition at the time of commitment to the Department) with an order to pay a fine, the Classification staff shall so inform the facility Business Office. The collection of funds for the fine shall then commence, provided there is no collection being made for court ordered restitution.
8. If a problem arises with the application of this policy, the Classification staff shall refer the matter to the Department's Victim Services Coordinator for advice on how to proceed.

Procedure B: Work Release for Prisoners or Juvenile Clients with Court Ordered Restitution or Fines

1. Prior to the prisoner's or juvenile client's final approval for participation in Work Release, a staff person designated by the Chief Administrative Officer of the facility shall incorporate into the Work Release Agreement a Special Condition of Work Release which requires a minimum of twenty-five percent (25%) of the prisoner's gross weekly wages or twenty-five (25%) of the juvenile client's gross weekly wages be deducted as payment toward court ordered restitution and/or fine, as applicable. The prisoner or juvenile client shall sign this agreement prior to final approval for work release.
2. Any prisoner or juvenile client on Work Release who is alleged to be in violation of a restitution or fine payment plan acknowledged by the prisoner or juvenile client as a Special Condition of Work Release shall be subject to disciplinary action. Such a prisoner or juvenile client shall also be subject to removal from Work Release.

Procedure C: Collection of Funds from Prisoners with Court Ordered Restitution or Fines

1. In the case of a prisoner or juvenile client on Work Release with court ordered restitution, the facility Business Office shall deduct from the prisoner's Work Release earnings whatever percentage of gross weekly wages is required to be paid toward restitution under the Special Condition of Work Release incorporated into the Work Release Agreement, which in the case of a prisoner, shall be no less than 25% and, in the case of a juvenile client, shall be no less than 25%.
2. Deduction of restitution from prisoners or juvenile clients with multiple docket numbers shall commence with the oldest docket number first. The oldest docket number is the docket number with the oldest sentence or disposition start date. Deductions shall be made on a single docket number at a time. No deduction for a subsequent docket number shall be made while deductions are being made on an older docket number.
3. In the case of a prisoner or juvenile client not on Work Release with court ordered restitution, the facility Business Office shall deduct from the prisoner's account 25%

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of money received by the prisoner from any source and from the juvenile client's account 25% of money received by the juvenile client from any source.

4. Deduction of a fine from prisoners or juvenile clients with multiple docket numbers shall commence with the oldest docket number first. The oldest docket number is the docket number with the oldest sentence or disposition start date. Deductions shall be made on a single docket number at a time. No deduction for a subsequent docket number shall be made while deductions are being made on an older docket number.
5. In the case of a prisoner or juvenile client on Work Release with a court ordered fine, the facility Business Office shall deduct from the prisoner's Work Release earnings whatever percentage of gross weekly wages is required to be paid toward a fine under the Special Conditions of Work Release incorporated into the Work Release Agreement, which, in the case of a prisoner, shall be no less than 25% and, in the case of a juvenile client shall be no less than 25%. No deduction for a fine shall be made while deductions are being made for court ordered restitution.
6. In the case of a prisoner or juvenile client not on Work Release with a court ordered fine, the facility Business Office shall deduct from the prisoner's account 25% of money received by the prisoner from any source and from the juvenile client's account 25% of money received by the juvenile client from any source. No deduction for a fine shall be made while deductions are being made for court ordered restitution.
7. Deduction from a transaction shall be made immediately.
8. The facility Business Office shall not deduct extra from one transaction to make up for any failure to make a full deduction from another transaction.
9. If a prisoner or juvenile client disputes the propriety of a deduction(s) or a court order purports to prohibit or limit a deduction(s), the facility Business Office shall refer the matter to the Department's Victim Services Coordinator and shall continue to make deductions in accordance with this policy unless and until otherwise advised by the Victim Services Coordinator.

Procedure D. Disbursement of Funds Collected for Restitution or Fines

1. The staff person designated by the Chief Administrative Officer of the facility shall disburse the funds collected for restitution on a monthly basis (provided, however, that disbursement shall also take place upon a prisoner's or juvenile client's transfer or release). The designated staff person shall disburse the restitution funds collected by forwarding these funds to the Adult Community Corrections office or the Juvenile Community Corrections office designated on the Initial Placement Form or Juvenile Initial Placement Form. That office shall deposit the funds in the bank account designated.

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2. The Central Office restitution clerk shall distribute restitution funds from the designated bank account to the victims on a monthly basis. In the event there is more than one victim on the same docket number, the payment shall be prorated by percentage owed to each victim. Full payment shall be made to the victim(s) of the oldest active docket number before payment is made to the victim(s) on any more recent docket number.
3. If a victim ordered to receive restitution cannot be located, the Department's Victim Services Coordinator shall be informed and shall inform the court that ordered the restitution. If a victim ordered to receive restitution has died, the Department's Victim Services Coordinator shall be informed and shall ensure that funds collected are disbursed to the estate of the victim.
4. The staff person designated by the Chief Administrative Officer shall disburse funds collected for fines by forwarding these funds to the courts on a monthly basis (provided, however, that disbursement shall also take place upon a prisoner's or juvenile client's transfer or release).

Procedure E. Record Keeping and Termination of Collection

1. The Business Office of the facility where the prisoner or juvenile client is housed shall maintain a record of collection on each prisoner or juvenile client subject to this policy.
2. The Business Office shall inform the Classification staff when funds equal to the amount of restitution and/or fines ordered by the court have been collected. The collection of funds shall then terminate. In the event that more than one person is ordered to pay restitution to a victim(s) for the same crime or juvenile crime and the orders for restitution are joint and several, each person is liable for the full amount. Funds shall be collected from each such person who is a prisoner or juvenile client at the rate of 25% of money received by each prisoner or 25% of money received by each juvenile client until the victim(s) has been paid in full. The collection of funds shall then terminate unless the amounts collected from each person ordered to pay restitution are not equal.
3. If the order is joint and several and the amounts collected from each person ordered to pay restitution are not equal, funds shall continue to be collected from any prisoner or juvenile client who has not paid an equal share of the restitution, and the funds shall be disbursed to any person who has paid more than an equal share of the restitution until the total obligation to the victim has been shared equally. The collection of funds from a prisoner or juvenile client who has not paid an equal share for the purpose of disbursing funds to a person who has paid more than an equal share shall be suspended if there is a subsequent docket number on which the prisoner or juvenile client has court-ordered restitution. The collection of funds on the older docket number shall restart once funds equal to the amount of

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restitution ordered by the court have been collected on any subsequent docket number.

4. The collection of funds for any fine owed on an active docket number shall commence once the collection of funds for restitution has terminated on all active docket numbers. The collection of funds for fines shall terminate if the collection of funds for restitution is restarted for any reason.
5. A prisoner or juvenile client on Work Release shall be permitted to continue on Work Release after the fulfillment of the Special Condition of Work Release related to restitution and/or fines, provided that continued participation is in accordance with departmental policy.
6. If a prisoner or juvenile client who has court ordered restitution or fines is transferred to or released to another correctional facility (including a county jail), all restitution and fine related information, including the order of judgment and commitment, the probation conditions, the Initial Placement Form or Juvenile Initial Placement Form and, where applicable, other materials related to restitution or fines and the record of collection shall be forwarded to the receiving facility.

VII. PROFESSIONAL STANDARDS

None.

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