
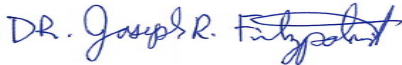


POLICY TITLE: RESTITUTION AND FEES		PAGE <u>1</u> OF <u>8</u>
POLICY NUMBER: 9.6 - ACC		
CHAPTER 9: SUPERVISION AND CASE MANAGEMENT		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS See Section VII
EFFECTIVE DATE: October 2, 2006	LATEST REVISION: September 8, 2015	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 17-A M.R.S.A. Sections 1204, 1326-A, 1326-F and 1329 and 34-A M.R.S.A. Sections 1403, 9887 and 9887-A.

II. APPLICABILITY

Adult Community Corrections

III. POLICY

It is the policy of the Department of Corrections to enforce the collection of restitution and fees from adult offenders who are under supervision in the community, including prisoners on supervised community confinement.

IV. CONTENTS

- Procedure A: Restitution and Fees, General Guidelines
- Procedure B: Determination of Time and Amount of Restitution Payments
- Procedure C: Making of Restitution Payments
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- Procedure E: Supervision Fees, Electronic Monitoring Fees, and Substance Testing Fees
- Procedure F: Out of State Travel Permit Application Fees
- Procedure G: Application Fee for Offenders Seeking to Transfer Out of State
- Procedure H: Offenders Transferred to Maine from Out of State
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V. ATTACHMENTS

- [Attachment A: Financial Information Form](#)
- [Attachment B: Restitution Payment Guidelines](#)
- [Attachment C: Voluntary Income Withholding Agreement](#)

VI. PROCEDURES

Procedure A: Restitution and Fees, General Guidelines

1. At the first meeting with the offender and as necessary thereafter, the supervising Probation Officer or Probation Officer Assistant shall inform the offender of any applicable financial obligations as ordered by the court (supervision fee, electronic monitoring fee, substance testing fee and victim restitution) and any additional application and supervision fees imposed by the Department.
2. When an offender has court ordered restitution and is under supervision in the community, the offender’s supervising Probation Officer or Probation Officer Assistant shall require the offender to complete a Financial Information form (Attachment A) within thirty (30) days of being placed under supervision.
3. In addition, the offender shall be required to verify his or her income through written documentation. Examples of acceptable income documentation include a recent pay stub, work invoices, or the previous year’s income tax return.
4. The offender shall also be responsible to provide documentation of any unusual expenses, e.g., extraordinary medical expenses, special family needs, etc.
5. The Probation Officer or Probation Officer Assistant shall inform each offender with court ordered restitution that the offender is responsible for immediately notifying the officer or assistant of any change in financial circumstances, including any change in income or any additional major expenses.

Procedure B: Determination of Time and Amount of Restitution Payments

1. When an offender has court ordered restitution and is under supervision in the community, the Probation Officer or Probation Officer Assistant, or designee, in the region where the offender was sentenced shall enter a restitution set-up into CORIS within ten (10) days of when information is obtained as to the total amount of restitution owed and to whom.
2. If the court has specified the time and amount of payments toward the restitution owed, the supervising Probation Officer or Probation Officer Assistant shall inform the offender that he or she must make the payments to the Department in accordance with the schedule set by the court. The Probation Officer or Probation Officer Assistant shall enter the required periodic payment amount into CORIS and shall provide the Restitution and Fee Collection Detail form (from CORIS) to the offender.

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3. If the court has not specified the time and amount of payments toward restitution, the Probation Officer or Probation Officer Assistant shall determine the monthly payment amount based on the offender's income and according to the Restitution Payment Guidelines (Attachment B). The Probation Officer or Probation Officer Assistant shall enter the required monthly payment amount into CORIS and shall provide the Restitution and Fee Collection Detail form (from CORIS) to the offender.
4. If the offender indicates an inability to comply with the required payment schedule due to a documented change in income or expenses and the payment schedule was not set by the court, the Probation Officer or Probation Officer Assistant shall determine whether the payment schedule set by the Department should be adjusted as a result of the change in income or expenses.
5. If the payment schedule was set by the court or the Probation Officer or Probation Officer Assistant decides not to change the payment schedule set by the Department, the Probation Officer or Probation Officer Assistant may inform the offender of the offender's option to request a modification of restitution in accordance with 17-A M.R.S.A. Section 1328-A.
6. The Probation Officer or Probation Officer Assistant may seek an additional lump sum payment from an offender who has assets gained outside of normal income such as inheritance, lottery winnings, or above average equity in property.

Procedure C: Making of Restitution Payments

1. When an offender has court ordered restitution and is under supervision in the community, the Probation Officer or Probation Officer Assistant may offer the offender the option of a Voluntary Income Withholding Agreement (Attachment C). If the offender refuses and the Probation Officer or Probation Officer Assistant believes an order is appropriate, the Probation Officer or Probation Officer Assistant shall file a motion for an income withholding order.
2. For payments made other than through a voluntary income withholding order or a court ordered income withholding order, the offender shall pay with a certified bank check, postal money order, credit card or debit card (requires signature, no PINs). A business check sent from an employer shall be accepted in accordance with an income withholding order or agreement. Under no circumstances may a restitution payment be made by personal check or in cash.
3. Employers shall be instructed to mail business checks directly to Central Office. Offenders shall mail or deliver payments made by certified bank check or postal money order directly to Central Office. An offender who brings a certified bank check or postal money order to a field office may be provided a stamped envelope to facilitate the offender mailing it to Central Office. Offenders may make payment by credit card or debit card at Central Office or the Regional Offices.

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Procedure D: Failure to Make Scheduled Restitution Payments or to Pay Total Amount

1. Under no circumstances may a Probation Officer make a motion for or agree to early termination of probation or supervised release for sex offenders if the offender has not paid the total amount of restitution owed.
2. If an offender on probation or supervised release for sex offenders has failed to make scheduled restitution payments for ninety (90) days or more and the failure to pay is inexcusable, the Probation Officer shall, with the permission of the prosecuting attorney, file a motion to revoke probation or supervised release for sex offenders. The failure to pay shall be considered inexcusable if the offender has not asked for and received a change in the payment schedule based on a documented change in income or expenses.
3. An offender who is in compliance with the restitution payment schedule, but who has not paid the total amount ordered by the court, shall not have a motion to revoke probation or supervised release for sex offenders filed for failure to pay restitution.
4. For an offender who is in compliance with the restitution payment schedule, but who has not paid the total amount ordered by the court by the completion of the probation or supervised release for sex offenders, the Probation Officer or Probation Officer Assistant shall inform the offender to continue making payments to the Department on the schedule as determined while under supervision. Under no circumstances may the payment schedule be changed by the Probation Officer or Probation Officer Assistant after the offender has completed probation or supervised release for sex offenders, nor may an additional lump sum payment be sought by the Probation Officer or Probation Officer Assistant after the offender has completed probation or supervised release for sex offenders.
5. If an offender who has completed probation or supervised release for sex offenders has failed to make scheduled restitution payments for ninety (90) days or more, the Victim Services Coordinator, or designee, shall send notification to the office of the prosecuting attorney using the prosecuting attorney's Restitution Notification Form (Attachment D). This notification shall include the balance due on the restitution obligation.
6. If a prisoner on supervised community confinement fails to make a scheduled payment and the failure to pay is inexcusable, the Probation Officer shall impose sanctions, up to and including return to the facility. A prisoner who is in compliance with the payment schedule, but who has not paid the total amount ordered by the court, shall not be sanctioned for failure to pay restitution.

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Procedure E: Supervision Fees, Electronic Monitoring Fees, and Substance Testing Fees

1. When an offender has been placed on probation or supervised release for sex offenders, the Probation Officer or Probation Officer Assistant shall review the court order and determine the amount of the supervision fee ordered. If the court fails to order a supervision fee, the amount owed is \$10.00 per month.
2. The Probation Officer or Probation Officer Assistant shall also review the court order to determine if any electronic monitoring fee or substance testing fee is ordered and, if so, the amount. If an electronic monitoring fee or substance testing fee is ordered, the Probation Officer or Probation Officer Assistant shall decide whether the payment is to be made by the offender to the Department or to the provider of the electronic monitoring or substance testing service.
3. The Probation Officer or Probation Officer Assistant, or designee, in the region where the offender was sentenced shall enter a supervision fee set-up into CORIS, including the required monthly payment amount, within ten (10) days of when the offender was placed under supervision and shall provide the Restitution and Fee Collection Detail form (from CORIS) to the offender.
4. If an electronic monitoring fee or substance testing fee is ordered and is to be paid by the offender to the Department, an electronic monitoring fee or substance testing fee set-up shall also be entered into CORIS and the form provided to the offender. If an electronic monitoring fee or substance testing fee is to be paid by the offender to the provider of the electronic monitoring or substance testing service, a note to that effect shall be entered into CORIS.
5. The offender shall pay the supervision fee and any electronic monitoring fee or substance testing fee to be paid to the Department with a certified bank check, postal money order, credit card or debit card (requires signature, no PINs). Under no circumstances may a supervision, electronic monitoring or substance testing fee payment be made by personal check or in cash.
6. Offenders shall mail or deliver payments made by certified bank check or postal money order directly to Central Office. An offender who brings a certified bank check or postal money order to a field office may be provided a stamped envelope to facilitate the offender mailing it to Central Office. Offenders may make payment by credit card or debit card at Central Office or the Regional Offices.
7. If an offender on probation or supervised release for sex offenders has failed to pay supervision or electronic monitoring fees for ninety (90) days or more or has failed to pay a substance testing fee, the Probation Officer may, with the permission of the prosecuting attorney, file a motion to revoke probation or supervised release for sex offenders.

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Procedure F: Out of State Travel Permit Application Fees

1. An offender who is required as a condition of probation or supervised release for sex offenders to remain in state unless permission to leave temporarily has been granted in writing by the Probation Officer and who requests such permission shall pay an application fee of \$25.
2. If permission is granted and if the permission allows the offender to leave the state on a periodic basis, the offender shall pay an additional fee of \$25 per month.
3. The offender shall pay the application and any additional fees with a certified bank check, postal money order, credit card or debit card (requires signature, no PINs). Under no circumstances may an application or additional fee payment be made by personal check or in cash.
4. Offenders shall mail or deliver payments made by certified bank check or postal money order directly to Central Office. An offender who brings a certified bank check or postal money order to a field office may be provided a stamped envelope to facilitate the offender mailing it to Central Office. Offenders may make payment by credit card or debit card at Central Office or the Regional Offices.
5. An application for out of state travel permission shall not be processed until the application fee is paid unless the failure to pay is excusable. A failure to pay is considered excusable and permission shall not be withdrawn if the offender is willing to pay and has made a good faith effort to obtain the funds required for the payment.
6. Permission for out of state travel shall be withdrawn if the offender fails to make an additional fee payment unless the failure to pay is excusable. If a failure to pay is considered excusable, the application shall be processed without payment if the offender is willing to pay and has made a good faith effort to obtain the funds required for the payment.

Procedure G: Application Fee for Offenders Seeking to Transfer Out of State

1. An offender seeking a transfer of supervision to another state shall pay an application fee of \$100.00.
2. The offender shall pay the application fee with a certified bank check, postal money order, credit card or debit card (requires signature, no PINs). Under no circumstances may an application fee payment be made by personal check or in cash.
3. Offenders shall mail or deliver payments made by certified bank check or postal money order directly to Central Office. An offender who brings a certified bank check or postal money order to a field office may be provided a stamped envelope

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to facilitate the offender mailing it to Central Office. Offenders may make payment by credit card or debit card at Central Office or the Regional Offices.

4. An application for out of state transfer shall not be processed until the application fee is paid unless the failure to pay is excusable. If a failure to pay is considered excusable, the application shall be processed without payment if the offender is willing to pay and has made a good faith effort to obtain the funds required for the payment.

Procedure H: Offenders Transferred to Maine from Out of State

1. The Probation Officer or Probation Officer Assistant shall instruct offenders who are being supervised in Maine under the Interstate Compact to send any restitution payments directly to the sending state.
2. For offenders who are being supervised in Maine under the Interstate Compact, a supervision fee of between \$10 and \$50 per month shall be imposed. The supervising Probation Officer or Probation Officer Assistant shall determine the monthly payment amount based on the financial resources of the offender and the nature of the burden imposes and according to the Out of State Supervision Fee Guidelines (Attachment E).
3. The offender shall pay the supervision fee with a certified bank check, postal money order, credit card or debit card (requires signature, no PINs). Under no circumstances may a supervision fee payment be made by personal check or in cash.
4. Offenders shall mail or deliver payments made by certified bank check or postal money order directly to Central Office. An offender who brings a certified bank check or postal money order to a field office may be provided a stamped envelope to facilitate the offender mailing it to Central Office. Offenders may make payment by credit card or debit card at Central Office or the Regional Offices.

Procedure I: Disbursement of Funds

1. Restitution payments shall be disbursed to victims as required by the court order and in accordance with practices established by the Department’s Victim Services Coordinator.
2. Supervision fee payments, other than those made by offenders being supervised in Maine under the Interstate Compact, shall be deposited into the State’s General Fund.
3. All other fee payments, consisting of electronic monitoring and substance testing fee payments not paid directly by the offender to the provider of the service; out of state permit application and additional fee payments; application fee payments for offenders seeking to transfer out of state; and supervision fee payments made by

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offenders being supervised in Maine under the Interstate Compact, shall be deposited into the Department's Adult Community Corrections Account. Funds deposited into this account shall be used to defray costs as set out in the applicable statute.

VII. PROFESSIONAL STANDARDS

ACA

APPFS 3-3142 Written policy, procedure, and practice preclude offenders from being confronted with possible probation/parole violations for failure to meet financial obligations other than those which are conditions of probation/parole.

APPFS 3-3209 The field agency has a written policy governing methods to be used in collecting the information essential in making recommendations for fines, restitution, and family support, and their amount(s).

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