

STATE OF MAINE
SUPREME JUDICIAL COURT
ADMINISTRATIVE ORDER JB-22-04

ORDER REGARDING SETOFF OF CASH BAIL

Effective: March 29, 2022

I. PURPOSE

This administrative order is issued to govern the setoff of cash bail against any restitution, attorney fees, fine, forfeiture, penalty, fee, or government operations surcharge under 4 M.R.S. § 1057 owed by the person who deposited the cash as bail, consistent with 15 M.R.S. § 1074(3) and (3-A).

II. ORDER REGARDING SETOFF

- A. Restitution, Fines, Forfeitures, Penalties, Fees, and Surcharges.** Unless the court provides otherwise, when a defendant or third-party bail provider has been ordered to pay restitution or a fine, forfeiture, penalty, fee, or government operations surcharge, either in the proceeding for which the bail has been collected or in any other proceeding, the court will pay and apply the bail funds toward those obligations consistent with the order of priorities established in 15 M.R.S. § 1074(3) and (3-A).
- B. Attorney Fees.** Unless the court provides otherwise, bail funds will be paid and applied toward attorney fees only if the court has ordered the defendant to reimburse the State for State-paid counsel in the case for which cash bail has been deposited. Such attorney fees will be paid consistent with the order of priorities established in 15 M.R.S. § 1074(3). Bail funds will not be used to pay attorney fees owed in unrelated cases unless (1) the presiding court requires it and (2) the court in the unrelated proceeding ordered the defendant or the third-party bail provider to reimburse the State for State-paid counsel.

III. PROCESS FOR SETOFF AND DISBURSEMENT

Absent court direction to the contrary in a particular case, at the completion of a case where cash bail is to be disbursed, the clerk of court will take the following steps:

- A. Restitution.** Contact the district attorney’s office prosecuting the case to determine whether any restitution is owed in either the case at hand or any other case. If restitution is owed, the proper amount will be delivered to that district attorney’s office in payment of the identified restitution.
- B. Attorney fees.** Contact the Maine Commission on Indigent Legal Services (MCILS) to determine the amount of any attorney fees for State-paid counsel owed in the case at hand. If such attorney fees are owed, the proper amount will be delivered to MCILS in payment of those fees. The court will hold deposited bail funds for no more than 60 days after the completion of a case to allow for MCILS to advise the court as to attorney fees that qualify for an offset.
- C. Fines, penalties, fees, or government operations surcharges imposed as part of a sentence.** Check Judicial Branch records for any fines, penalties, fees, or government operations surcharges owed in the case at hand or any other case. If fines, penalties, fees, or government operations surcharges are owed, the cash bail will be used to satisfy those obligations.
- D. Return of bail.** Any funds remaining after the above setoffs have been processed will be returned to the person who deposited the bail.

Promulgation Date: March 28, 2022

For the Court:

_____/s/_____
Valerie Stanfill
Chief Justice, Supreme Judicial Court