

WEST VIRGINIA CODE: §15A-4-11

§15A-4-11. Financial responsibility program for inmates.

(a) The Legislature finds that:

(1) There is an urgent need for vigorous enforcement of child support, restitution, and other court-ordered obligations;

(2) The duty of inmates to provide for the needs of dependent children, including their necessary food, clothing, shelter, education, and health care should not be avoided because of where the inmate resides;

(3) A person owing a duty of child support who chooses to engage in behaviors that result in the person becoming incarcerated should not be able to avoid child support obligations; and

(4) Each sentenced inmate should be encouraged to meet his or her legitimate court-ordered financial obligations.

(b) As part of the initial classification process into a correctional facility, the division shall assist each inmate in developing a financial plan for meeting the inmate's child support obligations, if any exist. At subsequent program reviews, the division shall consider the inmate's efforts to fulfill those obligations as indicative of that individual's acceptance and demonstrated level of responsibility.

(c)(1) The superintendent shall deduct from the earnings of each inmate all legitimate court-ordered financial obligations. The superintendent shall also deduct child support payments from the earnings of each inmate who has a court-ordered financial obligation. The commissioner shall develop a policy that outlines the formula for the distribution of the offender's income and the formula shall include a percentage deduction, not to exceed 50 percent in the aggregate, for any court-ordered victim restitution, court fees, and child support obligations owed under a support order, including an administrative fee, consistent with the provisions of §48-14-406(c) of this code, to support the division's administration of this financial service;

(2) If the inmate worker's income is subject to garnishment for child support enforcement deductions, it shall be calculated on the net wages after taxes, legal financial obligations, and garnishment;

(3) The division shall develop the necessary administrative structure to record inmates' wages and keep records of the amount inmates pay for child support; and

(4) Nothing in this section limits the authority of the Bureau for Child Support Enforcement from taking collection action against an inmate's moneys, assets, or property.

(d) If an inmate is awarded a civil judgment, or settles a civil matter, which awards him or her monetary damages, the court in which those damages are awarded or settled shall enter an order which deducts attorney fees and litigation costs owed the inmate's legal counsel and deducts all known outstanding child support, restitution, spousal support, and court costs from the award to the inmate, and satisfies those obligations, prior to releasing any funds to the inmate.

(e) Notwithstanding the failure of a court to act in accordance with subsection (d) of this section, the division may honor any outstanding court-ordered obligations of which it is aware, to satisfy all known orders of child support, restitution, spousal support, or court costs and shall deduct from any civil judgment or civil settlement such amounts necessary to pay such obligations of the inmate, if any, arising from orders of child support, restitution, spousal support, or court costs prior to depositing funds from such civil judgment or civil settlement in the inmate's account. The provisions of this subsection shall apply to civil actions filed after July 1, 2019.

(f) The accumulation of the total funds, not necessary for current distribution, shall be invested, with the approval of the commissioner or as appropriate, through the West Virginia Municipal Bond Commission, in short-term bonds or treasury certificates or equivalent of the United States. Bonds and certificates so purchased shall remain in the custody of the State Treasurer. The earnings from investments so made shall be reported to the principal officer of each institution, from time to time, as earned, and shall be credited to the respective accounts of the institutions by the West Virginia Municipal Bond Commission. When the earnings are transferred to the respective institutions, they shall be credited by the superintendent to the credit of, and for the benefit of, the inmate, or resident, benefit fund.