

SB 177

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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



## ENROLLED

Committee Substitute for  
SENATE BILL NO. 177

(By Senator Love, et al )



PASSED March 11, 2000  
In Effect ninety days from Passage

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COMMITTEE SUBSTITUTE

FOR

### Senate Bill No. 177

(SENATORS LOVE, DAWSON, BALL, MITCHELL,  
HUNTER AND SPROUSE, *original sponsors*)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to repeal section six, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three-a, article one, chapter twenty-five of said code, relating to inmate funds; requiring commissioner to make an annual report regarding the average cost of incarceration; and authorizing the division of corrections to collect certain costs from inmates.

*Be it enacted by the Legislature of West Virginia:*

That section six, article five, chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section three-a, article one,

chapter twenty-five of said code, be amended and reenacted to read as follows:

**ARTICLE 1. ORGANIZATION AND INSTITUTIONS.**

**§25-1-3a. Trustee accounts and funds, earnings and personal property of inmates.**

1 (a) The commissioner of corrections is authorized to  
2 establish at each institution under his or her jurisdiction  
3 a "trustee fund". The warden or administrator of each  
4 institution shall receive and take charge of the money and  
5 personal property, as defined by policy, of all inmates in  
6 his or her institution and all money or personal property,  
7 as defined by policy, sent to the inmates or earned by the  
8 inmates as compensation for work performed while they  
9 are domiciled there. The warden or administrator shall  
10 credit the money and earnings to the inmate entitled to it  
11 and shall keep an accurate account of all such money and  
12 personal property so received, which account is subject to  
13 examination by the state commissioner of corrections. The  
14 warden or administrator shall deposit the moneys in one  
15 or more responsible banks in accounts to be designated a  
16 "trustee fund".

17 (b) For all inmates, except those serving life without  
18 mercy, the warden or administrator shall keep in an  
19 account at least ten percent of all money earned during the  
20 inmate's incarceration and pay same to the inmate at the  
21 time of the inmate's release.

22 (c) The commissioner of corrections may direct that  
23 offenders who work in community work programs, includ-  
24 ing work release inmates who have obtained employment,  
25 make reimbursement to the state towards the cost of his or  
26 her incarceration.

27 (d) (1) Prior to ordering an incarcerated offender to make  
28 reimbursement towards the costs of his or her carcera-

29 tion, the commissioner, or his or her designee, shall  
30 consider the following:

31 (A) The offender's ability to pay;

32 (B) The nature and extent of the offender's responsibili-  
33 ties to his or her dependents, if any;

34 (C) The length of probable incarceration under the  
35 court's sentence; and

36 (D) The effect, if any, that reimbursement might have on  
37 the offender's rehabilitation.

38 (2) No order of reimbursement entered pursuant to this  
39 section may exceed five hundred dollars per month unless  
40 the offender gives his or her express consent.

41 (3) The commissioner of corrections shall, prior to the  
42 beginning of each fiscal year, prepare a report that details  
43 the average cost per inmate incurred by the division for  
44 the care and supervision of those individuals in his or her  
45 custody.

46 (e) The chief executive officer of any correctional  
47 institution, on request of an inmate, may expend up to one  
48 half of the money earned by the inmate on behalf of the  
49 family of the inmate if the ten percent mandatory savings  
50 has first been set aside and other fees owed by the inmate  
51 have been paid. The remainder of the money earned, after  
52 deducting amounts expended as authorized, shall be  
53 accumulated to the credit of the inmate and be paid to the  
54 inmate at times as may be prescribed by rules. The funds  
55 so accumulated on behalf of inmates shall be held by the  
56 chief executive officer of each institution, under a bond  
57 approved by the attorney general.

58 (f) The warden or administrator shall deliver to the  
59 inmate at the time he or she leaves the institution, or as  
60 soon as practicable thereafter, all personal property,

61 moneys and earnings then credited to the inmate, or in  
62 case of the death of the inmate before authorized release  
63 from the institution, the warden or administrator shall  
64 deliver the property to the inmate's personal representa-  
65 tive. In case a conservator is appointed for the inmate  
66 while he or she is domiciled at the institution, the warden  
67 or administrator shall deliver to the conservator, upon  
68 proper demand, all moneys and personal property belong-  
69 ing to the inmate that are in the custody of the warden or  
70 administrator.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within..... *approved* ..... this the *19th*  
Day of..... *March* ....., 2000.

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/20/00

Time 3:50 pm