WEST VIRGINIA LEGISLATURE
Regular Session 2002

ENROLLED
Committee Substitute for
SENATE BILL NO. 465

(By Senators Love and Hunter)

PASSED March 7, 2002

In Effect ninety days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 465
(Senators Love and Hunter, original sponsors)

[Passed March 7, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section three-a, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removing the ten percent holding of inmate funds requirement for inmates the warden determines are likely to serve the remainder of their natural lives in prison due to their age and the length of their sentences.

Be it enacted by the Legislature of West Virginia:

That section three-a, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.
§25-1-3a. Trustee accounts and funds, earnings and personal property of inmates.

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

(b) For all inmates, except those serving life without mercy and those the warden determines are likely to serve the remainder of their natural lives in the custody of the division of corrections due to their age and the length of their sentences, the warden or administrator shall keep in an account at least ten percent of all money earned during the inmate's incarceration and pay the money to the inmate at the time of the inmate's release.

(c) The commissioner of corrections may direct that offenders who work in community work programs, including work release inmates who have obtained employment, make reimbursement to the state toward the cost of his or her incarceration.

(d)(1) Prior to ordering an incarcerated offender to make reimbursement toward the costs of his or her incarceration, the commissioner, or his or her designee, shall consider the following:

(A) The offender's ability to pay;
(B) The nature and extent of the offender's responsibilities to his or her dependents, if any;

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

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

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

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

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

(f) The warden or administrator shall deliver to the inmate at the time he or she leaves the institution, or as soon as practicable after departure, all personal property, moneys and earnings then credited to the inmate, or in case of the death of the inmate before authorized release from the institution, the warden or administrator shall deliver the property to the inmate's personal representative. In case a conservator is appointed for the inmate while he or she is domiciled at the institution, the warden
or administrator shall deliver to the conservator, upon proper demand, all moneys and personal property belonging to the inmate that are in the custody of the warden or administrator.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 21st day of March, 2002.

Governor