WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2005

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2471

(By Delegates Perry, Beach, Hartman, Pino, Leach and Michael)

Passed April 9, 2005

In Effect Ninety Days from Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1-3c, relating to inmate funds; establishing a financial responsibility program for inmates; requiring wardens to deduct a portion from inmate earnings to be used to satisfy child support payments and legitimate court-ordered financial obligations; providing for administrative fees; and requiring the Division of Corrections to develop policies and procedures for the administration of the program and the maintenance of records.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §25-1-3c, to read as follows:
ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-3c. 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 dependents, 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 of Corrections shall assist the 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 warden shall deduct from the earnings of each inmate, legitimate court-ordered financial obligations. The warden shall also deduct child support payments from the earnings of each inmate who has a court-ordered financial obligation. The Commissioner of the Division of Corrections 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 forty 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 not to exceed one dollar, consistent with the provisions of subsection c, section four hundred six, article fourteen, chapter forty-eight of this code, to support the Division of Correction’s administration of this financial service.

(2) In the event that 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 of Corrections shall develop the necessary administrative structure to record inmates’ wages and keep records of the amount inmates pay for child support.

(4) Nothing in this section limits the authority of the Bureau for Child Support Enforcement of the Department of Health and Human Resources from taking collection action against an inmate’s moneys, assets or property.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 1st day of May, 2005.

Governor
PRESENTED TO THE
GOVERNOR
MAY 2 2005

Time 10:15 AM