

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Engrossed**

**Committee Substitute**

**for**

**Senate Bill 373**

SENATORS WELD, CLEMENTS, AND MARONEY, *original sponsors*

[Originating in the Committee on the Judiciary;

Reported on January 30, 2019]



1 A BILL to amend and reenact §15A-4-11 of the Code of West Virginia, 1931, as amended, relating  
2 to the financial responsibility of inmates generally; and authorizing the Commissioner of  
3 the Division of Corrections and Rehabilitation to deduct money from civil judgments and  
4 settlements to pay court-ordered obligations prior to depositing such moneys in the  
5 inmate's account.

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

**ARTICLE 4. CORRECTIONS MANAGEMENT.**

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

1 (a) The Legislature finds that:

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

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

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

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

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

16 (c)(1) The superintendent shall deduct from the earnings of each inmate all legitimate  
17 court-ordered financial obligations. The superintendent shall also deduct child support payments  
18 from the earnings of each inmate who has a court-ordered financial obligation. The commissioner

19 shall develop a policy that outlines the formula for the distribution of the offender's income and  
20 the formula shall include a percentage deduction, not to exceed 50 percent in the aggregate, for  
21 any court-ordered victim restitution, court fees, and child support obligations owed under a  
22 support order, including an administrative fee, consistent with the provisions of §48-14-406(c) of  
23 this code, to support the division's administration of this financial service;

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

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

29 (4) Nothing in this section limits the authority of the Bureau for Child Support Enforcement  
30 of the Department of Health and Human Resources from taking collection action against an  
31 inmate's moneys, assets, or property.

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

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

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