

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2764**

BY DELEGATES FAST, HOLLEN, MILLER, HANNA, COWLES,

FOSTER AND KELLY, D.

(By request of the Department of Military Affairs and

Public Safety)

[Introduced January 30, 2019; Referred

to the Committee on the Judiciary then Finance.]

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 in relation to civil awards and previously entered  
 3 court-ordered obligations.

*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 support  
22 order, including an administrative fee, consistent with the provisions of §48-14-406(c) of this code,  
23 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 all outstanding child support, restitution, or other court-ordered obligations  
35 from the award to the inmate, and satisfies those obligations, prior to releasing any funds to the  
36 inmate. Notwithstanding any other section of this code, if a civil matter is adjudicated or settled,  
37 and this order is not entered by the court, the division shall subtract any outstanding child support,  
38 restitution, or other court ordered obligations, which the division is aware of, to satisfy these  
39 obligations prior to depositing the funds into the inmate's account, up to an amount equal to satisfy  
40 these obligations of the inmate.

41 (e) The accumulation of the total funds, not necessary for current distribution, shall be  
42 invested, with the approval of the commissioner or as appropriate, through the West Virginia  
43 Municipal Bond Commission, in short term bonds or treasury certificates or equivalent of the  
44 United States. Bonds and certificates so purchased shall remain in the custody of the State  
45 Treasurer. The earnings from investments so made shall be reported to the principal officer of  
46 each institution from time to time, as earned, and shall be credited to the respective accounts of

47 the institutions by the West Virginia Municipal Bond Commission. When the earnings are  
48 transferred to the respective institutions, they shall be credited by the superintendent to the credit  
49 of, and for the benefit of, the inmate, or resident, benefit fund.

NOTE: The purpose of this bill is to include civil settlements in moneys that should be paid on court ordered obligations of inmates, and allowing the division to subtract the moneys from civil judgments and settlements to be paid towards court ordered obligations even if a court of competent jurisdiction does not enter an order.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.