

# HOUSE BILL 938

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CF SB 655

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By: **Delegates Levi, Vallario, Haynes, Rice, and Vaughn**

Introduced and read first time: February 12, 2009

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services - Inmate Earnings - Compensation for Victims of**  
3 **Crime**

4 FOR the purpose of adding to a list of deductions that the Department of Public Safety  
5 and Correctional Services is required to take from an inmate's earnings a  
6 requirement that the Department pay compensation for victims of crime in  
7 accordance with certain provisions; requiring the Department to withhold a  
8 certain amount of the earnings of an inmate in a certain program for  
9 compensation for victims of crime; requiring the Department to allocate  
10 earnings that are withheld in a certain manner; establishing that compliance  
11 with a judgment of restitution is a required condition of work release if work  
12 release is allowed; applying certain provisions relating to responsibility for the  
13 administration of payments of restitution to the Department instead of to the  
14 Division of Parole and Probation; requiring the Department to submit a certain  
15 report by a certain date; and generally relating to compensation for victims of  
16 crime.

17 BY repealing and reenacting, with amendments,  
18 Article - Correctional Services  
19 Section 11-604  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2008 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Criminal Procedure  
24 Section 11-607  
25 Annotated Code of Maryland  
26 (2008 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article – Correctional Services**

11-604.

(a) The Department shall collect an inmate's earnings.

(b) From an inmate's earnings, the Department shall:

(1) reimburse the county or State for the cost of providing food, lodging, and clothing to the inmate in a local correctional facility;

(2) pay court ordered payments for support of dependents; [and]

(3) pay court ordered payments for restitution; **AND**

**(4) PAY COMPENSATION FOR VICTIMS OF CRIME IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

**(c) (1) OF THE EARNINGS OF AN INMATE IN THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM OF THE UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, THE DEPARTMENT SHALL WITHHOLD 20% FOR COMPENSATION FOR VICTIMS OF CRIME, IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROGRAM.**

**(2) IF A COURT IN A CRIMINAL OR JUVENILE DELINQUENCY PROCEEDING HAS ORDERED THE INMATE TO PAY RESTITUTION, THE DEPARTMENT SHALL FORWARD THE 20% WITHHELD UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE PERSON OR GOVERNMENTAL UNIT SPECIFIED IN THE JUDGMENT OF RESTITUTION.**

**(3) IF THE INMATE IS NOT SUBJECT TO A JUDGMENT OF RESTITUTION OR THE JUDGMENT OF RESTITUTION IS SATISFIED, OF THE MONEY WITHHELD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL PAY:**

**(I) 50% INTO THE CRIMINAL INJURIES COMPENSATION FUND ESTABLISHED UNDER § 11-819 OF THE CRIMINAL PROCEDURE ARTICLE; AND**

**(II) 50% INTO THE STATE VICTIMS OF CRIME FUND ESTABLISHED UNDER § 11-916 OF THE CRIMINAL PROCEDURE ARTICLE.**

**[(c)] (D) The Department shall:**

1 (1) credit to the inmate's account any balance that remains after  
2 paying the items in subsection (b)(1) through (3) of this section; and

3 (2) pay the balance in the inmate's account to the inmate within 15  
4 days after the inmate is released.

### 5 Article – Criminal Procedure

6 11–607.

7 (a) (1) When a judgment of restitution has been entered under § 11–603  
8 of this subtitle, compliance with the judgment of restitution:

9 (i) may be a requirement in the judgment of conviction or  
10 disposition in a juvenile delinquency proceeding;

11 (ii) if work release is ordered **OR ALLOWED**, shall be a condition  
12 of work release;

13 (iii) if probation is ordered, shall be a condition of probation:

14 1. in addition to a sentence or disposition; or

15 2. instead of a sentence if the probation is ordered before  
16 judgment under § 6–220 of this article.

17 (2) Subject to federal law, the Department or the Department of  
18 Juvenile Services shall obtain the Social Security number of the restitution obligor to  
19 facilitate the collection of restitution.

20 (b) (1) The restitution obligor shall make restitution to the [Division]  
21 **DEPARTMENT** or the Department of Juvenile Services under the terms and  
22 conditions of the judgment of restitution.

23 (2) The [Division] **DEPARTMENT** or the Department of Juvenile  
24 Services:

25 (i) shall keep records of payments or return of property in  
26 satisfaction of the judgment of restitution;

27 (ii) shall forward property or payments in accordance with the  
28 judgment of restitution and Part I of this subtitle to the person or governmental unit  
29 specified in the judgment of restitution; and

30 (iii) may require the restitution obligor to pay additional fees not  
31 exceeding 2% of the amount of the judgment of restitution to pay for the  
32 administrative costs of collecting payments or property.

1           (c)   (1)   Whenever an obligor's restitution payment, as ordered by the court  
2 or established by the [Division] **DEPARTMENT**, is overdue, the [Division]  
3 **DEPARTMENT** or the Department of Juvenile Services shall:

4                           (i)    notify the court; and

5                           (ii)   if an earnings withholding order is not in effect and the  
6 restitution obligor is employed, request an earnings withholding order.

7           (2)   The court may hold a hearing to determine whether the restitution  
8 obligor is in contempt of court or has violated the terms of the probation.

9           (3)   If the court finds that the restitution obligor intentionally became  
10 impoverished to avoid payment of the restitution, the court may find the restitution  
11 obligor in contempt of court or in violation of probation.

12           SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public  
13 Safety and Correctional Services, in accordance with § 2-1246 of the State  
14 Government Article, shall report to the Senate Judicial Proceedings Committee and  
15 the House Judiciary Committee on or before December 1, 2009, on the payment of  
16 restitution by inmates under its jurisdiction, addressing how the Department could  
17 increase the collection of restitution, including by having additional inmates pay  
18 toward restitution obligations through an annual transfer or other periodic transfer of  
19 earnings.

20           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2009.