

Chapter 652

(House Bill 921)

AN ACT concerning

Correctional Services – Inmate Earnings – Compensation for Victims of Crime

FOR the purpose of adding a requirement that the Department of Public Safety and Correctional Services pay compensation for victims of crime in accordance with certain provisions to a list of deductions that the Department is required to withhold from an inmate's earnings; requiring the Department to withhold a certain amount of the earnings of an inmate in a certain program for compensation for victims of crime; requiring the Department to allocate earnings that are withheld in a certain manner; requiring the Criminal Injuries Compensation Board to distribute certain amounts to a certain person or governmental unit; establishing that compliance with a judgment of restitution is a required condition of work release if work release is allowed; applying certain provisions relating to responsibility for the administration of payments of restitution to the Department instead of to the Division of Parole and Probation; requiring the Department to submit a certain report by a certain date; altering the purpose of the Criminal Injuries Compensation Fund to include distribution of certain restitution payments; and generally relating to compensation for victims of crime.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 11–604
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–607 and 11–819(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2012 Supplement)

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

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) (I) 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 CRIMINAL INJURIES COMPENSATION FUND ESTABLISHED UNDER § 11-819 OF THE CRIMINAL PROCEDURE ARTICLE.

(II) THE CRIMINAL INJURIES COMPENSATION BOARD SHALL DISTRIBUTE FROM THE CRIMINAL INJURIES COMPENSATION FUND ANY AMOUNT RECEIVED UNDER THIS PARAGRAPH TO THE PERSON OR GOVERNMENTAL UNIT SPECIFIED IN THE JUDGMENT OF RESTITUTION TO PAY THE RESTITUTION AS REQUIRED UNDER § 11-607(B)(2) OF THE CRIMINAL PROCEDURE ARTICLE.

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

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

Article – Criminal Procedure

11-607.

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

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

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

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

1. in addition to a sentence or disposition; or

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

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

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

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

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

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

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

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

(i) notify the court; and

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

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

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

11-819.

(b) The Criminal Injuries Compensation Fund:

(1) shall be used to:

(I) carry out the provisions of this subtitle; and

(II) **DISTRIBUTE RESTITUTION PAYMENTS FORWARDED TO THE FUND UNDER § 11-604 OF THE CORRECTIONAL SERVICES ARTICLE; AND**

(2) may be used for:

(i) any award given under this subtitle; and

(ii) the costs of carrying out this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public Safety and Correctional Services, in accordance with § 2-1246 of the State Government Article, shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee on or before December 1, 2013, on the payment of

restitution by inmates under its jurisdiction, addressing how the Department could increase the collection of restitution, including by having additional inmates pay toward restitution obligations through an annual transfer or other periodic transfer of earnings.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.