

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 938
Judiciary

(Delegate Levi, *et al.*)

Judicial Proceedings

Correctional Services - Inmate Earnings - Compensation for Victims of Crime

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to make a certain withholding from the earnings of an inmate in the Prison Industry Enhancement Certification Program for compensation for victims of crime.

Fiscal Summary

State Effect: None. The bill's requirements, including reporting requirements, can be handled with the existing budgeted resources of DPSCS.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill specifies that, of the earnings of an inmate in the Private Sector/Prison Industry Enhancement Certification Program of the U.S. Department of Justice, Bureau of Justice Assistance, DPSCS must withhold 20% for compensation for victims of crime, in accordance with the requirements of the program.

If a court in a criminal or juvenile delinquency proceeding has ordered the inmate to pay restitution, DPSCS must forward the withheld 20% to the person or governmental unit specified in the judgment of restitution. If the inmate is not subject to a judgment of restitution or the judgment of restitution is satisfied, of the money withheld, DPSCS must pay:

- 50% into Maryland's Criminal Injuries Compensation Fund (CICF); and
- 50% into the State Victims of Crime Fund.

DPSCS is required to report to the Senate Judicial Proceedings Committee and House Judiciary Committee by December 1, 2009 on the payment of restitution by inmates under its jurisdiction, addressing how DPSCS 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.

Current Law: The State's Criminal Injuries Compensation Board in DPSCS provides financial assistance for innocent victims of crime. The board may compensate victims who suffer physical or psychological injury for their medical expenses and loss of earnings. In cases of homicide, the board may assist with funeral expenses and loss of support on the part of the victim's dependents. A claimant seeking compensation from the Criminal Injuries Compensation Fund must file a claim no later than three years after the occurrence of the crime or delinquent act or the death of the victim. In a case of child abuse, a claimant may file a claim up to three years after the claimant knew or should have known of the abuse. A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award.

The board may make an award only if it finds that:

- a crime or delinquent act was committed;
- the crime or delinquent act directly resulted in physical injury to or death of the victim or psychological injury to the victim that necessitated mental health counseling;
- police, other law enforcement, or judicial records show that the crime or delinquent act or the discovery of child abuse was reported to the proper authorities within 48 hours after the occurrence of the crime or delinquent act or the discovery of the child abuse; and
- the victim has cooperated fully with all law enforcement units.

The board may make an award only if the claimant, as a result of the injury on which the claim is based, has: (1) incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary services; or (2) lost at least two continuous weeks' earnings or support. A claim awarded for lost wages may not exceed two-thirds of gross weekly salary or \$668 per week, whichever is greater.

Compensation from the fund may not exceed:

- \$25,000 for a disability-related or dependency-related claim;
- \$45,000 for a medical claim;
- \$5,000 for each claimant for psychiatric, psychological, or mental health counseling;
- a total of \$45,000, including any subsequent and supplemental awards;
- \$250 for each claimant for repair, replacement, or cleaning of property damaged, soiled, or littered as a result of a crime or law enforcement investigation of a crime; or
- for an award for psychiatric, psychological, or mental health counseling resulting from the death of a victim: \$1,000 for each claimant; and \$5,000 for each incident.

An award must be reduced by the amount of any payment received or to be received as a result of the injury from or on behalf of the offender, from any other public or private source (including an award under the Maryland Workers' Compensation Act), from any proceeds of life insurance in excess of \$25,000, or as an emergency award from the board.

The State Victims of Crime Fund is used to pay for carrying out: (1) Article 47 of the Maryland Declaration of Rights; (2) the guidelines for the treatment and assistance for victims and witnesses of crimes and delinquent acts; and (3) any laws enacted to benefit victims and witnesses of crimes and delinquent acts. This special fund is administered by the State Board of Victim Services in the Governor's Office of Crime Control and Prevention and may pay for its own administrative costs.

Article 47 of the Declaration of Rights provides that: (1) a victim of crime must be treated by agents of the State with dignity, respect, and sensitivity during all phases of the criminal justice process; (2) in a case originating by indictment or information filed in a circuit court, a victim of crime has the right to be informed of the rights established in this Article and, upon request and if practicable, to be notified of, to attend, and to be heard at a criminal justice proceeding, as these rights are implemented and the terms "crime," "criminal justice proceeding," and "victim" are specified by law; and (3) nothing in this Article permits any civil cause of action for monetary damages for violation of any of its provisions or authorizes a victim of crime to take any action to stay a criminal justice proceeding.

Background: Under the Prison Industry Enhancement Certification Program (PIECP), the Bureau of Justice Assistance (BJA) certifies that local or state prison industry

programs meet all the necessary requirements to be exempt from federal restrictions on prisoner-made goods in interstate commerce. The program places inmates in realistic work environments, pays them prevailing wages, and gives them a chance to develop marketable skills that will increase their potential for rehabilitation and meaningful employment on release.

The technical assistance provider under PIECP, the National Correctional Industries Association, works with the public and private sectors to provide the latest information and strategies on prison industries and to enhance certificate holders' prison industry programs.

Currently, 37 state and 4 county-based certified correctional industry programs operate in the United States, and these programs manage at least 175 business partnerships with private industry. Nationwide, as of September 30, 2005, PIECP generated more than \$33 million for victims' programs, \$21 million for inmate family support, \$97.5 million for correctional institution room and board costs, and \$46.6 million in state and federal taxes.

The DOC wage scale for inmates ranges between \$0.90 to \$2.75 per day, depending on the work assignment. For Maryland Correctional Enterprises, the wage scale is as follows:

- Shop workers: \$1.56 to \$3.44 per day. In addition to this base wage an inmate earns additional money per day for each saleable item that is produced. On average, shop inmates earn between \$120 and \$150 per month, or \$6.00 to \$7.50 per day.
- Warehouse workers: \$5.10 per day.
- Work release inmates: \$8.00 per day.
- Prison Industry Enhancement Program (PIE): prevailing wage.

Inmate wage expenditures for fiscal 2008 totaled \$6.3 million for all of DPSCS operations. Inmates currently employed through the PIE Program are subject to a 10% deduction of wages for victim compensation. Disbursements are made to the Criminal Injuries Compensation Board.

Additional Information

Prior Introductions: None.

Cross File: SB 655 (Senator Stone) - Judicial Proceedings.

Information Source(s): Department of Legislative Services

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