

SENATE BILL 258

E4
SB 655/09 – JPR

3lr1554
CF HB 921

By: **Senator Shank**

Introduced and read first time: January 18, 2013

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2013

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of adding a requirement that the Department of Public Safety and
5 Correctional Services pay compensation for victims of crime in accordance with
6 certain provisions to a list of deductions that the Department is required to
7 withhold from an inmate's earnings; 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; requiring the ~~State Board of~~
11 ~~Victim Services~~ Criminal Injuries Compensation Board to distribute certain
12 amounts to a certain person or governmental unit; establishing that compliance
13 with a judgment of restitution is a required condition of work release if work
14 release is allowed; applying certain provisions relating to responsibility for the
15 administration of payments of restitution to the Department instead of to the
16 Division of Parole and Probation; requiring the Department to submit a certain
17 report by a certain date; altering the purpose of the ~~State Victims of Crime~~
18 Criminal Injuries Compensation Fund to include distribution of certain
19 restitution payments; and generally relating to compensation for victims of
20 crime.

21 BY repealing and reenacting, with amendments,
22 Article – Correctional Services
23 Section 11–604
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2008 Replacement Volume and 2012 Supplement)

2 BY repealing and reenacting, with amendments,
 3 Article – Criminal Procedure
 4 Section 11–607 and ~~11–916~~ 11–819(b)
 5 Annotated Code of Maryland
 6 (2008 Replacement Volume and 2012 Supplement)

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

9 **Article – Correctional Services**

10 11–604.

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

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

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

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

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

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

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

24 (2) (I) IF A COURT IN A CRIMINAL OR JUVENILE DELINQUENCY
 25 PROCEEDING HAS ORDERED THE INMATE TO PAY RESTITUTION, THE
 26 DEPARTMENT SHALL FORWARD THE 20% WITHHELD UNDER PARAGRAPH (1) OF
 27 THIS SUBSECTION TO THE ~~STATE VICTIMS OF CRIME~~ CRIMINAL INJURIES
 28 COMPENSATION FUND ESTABLISHED UNDER ~~§ 11–916~~ § 11–819 OF THE
 29 CRIMINAL PROCEDURE ARTICLE.

30 (II) ~~THE STATE BOARD OF VICTIM SERVICES~~ CRIMINAL
 31 INJURIES COMPENSATION BOARD SHALL DISTRIBUTE FROM THE ~~STATE~~
 32 ~~VICTIMS OF CRIME~~ CRIMINAL INJURIES COMPENSATION FUND ANY AMOUNT

1 RECEIVED UNDER THIS PARAGRAPH TO THE PERSON OR GOVERNMENTAL UNIT
2 SPECIFIED IN THE JUDGMENT OF RESTITUTION TO PAY THE RESTITUTION AS
3 REQUIRED UNDER § 11-607(B)(2) OF THE CRIMINAL PROCEDURE ARTICLE.

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

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

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

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

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

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

18 Article – Criminal Procedure

19 11-607.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (i) notify the court; and

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

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

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

28 ~~11-916.~~

29 ~~(a) There is a State Victims of Crime Fund.~~

30 ~~(b) (1) The Fund shall be used to pay for:~~

31 ~~(i) carrying out Article 47 of the Maryland Declaration of~~
32 ~~Rights;~~

1 ~~(ii) carrying out the guidelines for the treatment and assistance~~
 2 ~~for victims and witnesses of crimes and delinquent acts provided in §§ 11-1002 and~~
 3 ~~11-1003 of this title;~~

4 ~~(iii) carrying out any laws enacted to benefit victims and~~
 5 ~~witnesses of crimes and delinquent acts; [and]~~

6 ~~(iv) supporting child advocacy centers established under §~~
 7 ~~11-923(h) of this subtitle; AND~~

8 ~~(v) DISTRIBUTING RESTITUTION PAYMENTS FORWARDED~~
 9 ~~TO THE FUND UNDER § 11-604 OF THE CORRECTIONAL SERVICES ARTICLE.~~

10 ~~(2) The Fund may pay for the administrative costs of the Fund.~~

11 ~~(e) The Board shall administer the Fund.~~

12 ~~(d) Grants awarded by the Board shall be equitably distributed among all~~
 13 ~~purposes of the Fund described in subsection (b) of this section.~~

14 11-819.

15 (b) The Criminal Injuries Compensation Fund:

16 (1) shall be used to:

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

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

20 (2) may be used for:

21 (i) any award given under this subtitle; and

22 (ii) the costs of carrying out this subtitle.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public
 24 Safety and Correctional Services, in accordance with § 2-1246 of the State
 25 Government Article, shall report to the Senate Judicial Proceedings Committee and
 26 the House Judiciary Committee on or before December 1, 2013, on the payment of
 27 restitution by inmates under its jurisdiction, addressing how the Department could
 28 increase the collection of restitution, including by having additional inmates pay
 29 toward restitution obligations through an annual transfer or other periodic transfer of
 30 earnings.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.