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**SUBSTITUTE HOUSE BILL 1571**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Holmquist, Dickerson, Delvin, Upthegrove, Pettigrew, Hinkle, Priest, Condotta, Kristiansen, Orcutt, Rockefeller, Bush, McCoy and Clements)

READ FIRST TIME 03/04/03.

1 AN ACT Relating to enhancing necessary child support payments;  
2 amending RCW 72.09.111 and 72.09.480; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that there is an  
5 urgent need for vigorous enforcement of child support obligations. The  
6 legislature further finds that the duty of child support to provide for  
7 the needs of dependent children, including their necessary food,  
8 clothing, shelter, education, and health care, should not be avoided  
9 because of where an obligor resides. A person owing a duty of child  
10 support who chooses to engage in behaviors that result in the person  
11 becoming incarcerated should not be able to avoid child support  
12 obligations.

13 **Sec. 2.** RCW 72.09.111 and 2002 c 126 s 2 are each amended to read  
14 as follows:

15 (1) The secretary shall deduct from the gross wages or gratuities  
16 of each inmate working in correctional industries work programs, taxes  
17 and legal financial obligations. The secretary shall also deduct child  
18 support payments from the gratuities of each inmate working in class II

1 through class IV correctional industries work programs. The secretary  
2 shall develop a formula for the distribution of offender wages and  
3 gratuities.

4 (a) The formula shall include the following minimum deductions from  
5 class I gross wages and from all others earning at least minimum wage:

6 (i) Five percent to the public safety and education account for the  
7 purpose of crime victims' compensation;

8 (ii) Ten percent to a department personal inmate savings account;

9 (iii) Twenty percent to the department to contribute to the cost of  
10 incarceration; and

11 (iv) Twenty percent for payment of legal financial obligations for  
12 all inmates who have legal financial obligations owing in any  
13 Washington state superior court.

14 (b) The formula shall include the following minimum deductions from  
15 class II gross gratuities:

16 (i) Five percent to the public safety and education account for the  
17 purpose of crime victims' compensation;

18 (ii) Ten percent to a department personal inmate savings account;

19 (iii) Fifteen percent to the department to contribute to the cost  
20 of incarceration; ~~((and))~~

21 (iv) Twenty percent for payment of legal financial obligations for  
22 all inmates who have legal financial obligations owing in any  
23 Washington state superior court; and

24 (v) Fifteen percent for any child support owed under a support  
25 order.

26 ~~((The formula shall include the following minimum deduction~~  
27 ~~from class IV gross gratuities: Five percent to the department to~~  
28 ~~contribute to the cost of incarceration.~~

29 ~~(d))~~ The formula shall include the following minimum deductions  
30 from class III gratuities:

31 (i) Five percent for the purpose of crime victims' compensation;  
32 and

33 (ii) Fifteen percent for any child support owed under a support  
34 order.

35 (d) The formula shall include the following minimum deduction from  
36 class IV gross gratuities:

37 (i) Five percent to the department to contribute to the cost of  
38 incarceration; and

1        (ii) Fifteen percent for any child support owed under a support  
2 order.

3        Any person sentenced to life imprisonment without possibility of  
4 release or parole under chapter 10.95 RCW or sentenced to death shall  
5 be exempt from the requirement under (a)(ii) or (b)(ii) of this  
6 subsection.

7        The department personal inmate savings account, together with any  
8 accrued interest, shall only be available to an inmate at the time of  
9 his or her release from confinement, unless the secretary determines  
10 that an emergency exists for the inmate, at which time the funds can be  
11 made available to the inmate in an amount determined by the secretary.  
12 The management of classes I, II, and IV correctional industries may  
13 establish an incentive payment for offender workers based on  
14 productivity criteria. This incentive shall be paid separately from  
15 the hourly wage/gratuity rate and shall not be subject to the specified  
16 deduction for cost of incarceration.

17        In the event that the offender worker's wages or gratuity is  
18 subject to garnishment for support enforcement, the crime victims'  
19 compensation, savings, and cost of incarceration deductions shall be  
20 calculated on the net wages after taxes, legal financial obligations,  
21 and garnishment.

22        (2) The department shall explore other methods of recovering a  
23 portion of the cost of the inmate's incarceration and for encouraging  
24 participation in work programs, including development of incentive  
25 programs that offer inmates benefits and amenities paid for only from  
26 wages earned while working in a correctional industries work program.

27        (3) The department shall develop the necessary administrative  
28 structure to recover inmates' wages and keep records of the amount  
29 inmates pay for the costs of incarceration and amenities. All funds  
30 deducted from inmate wages under subsection (1) of this section for the  
31 purpose of contributions to the cost of incarceration shall be  
32 deposited in a dedicated fund with the department and shall be used  
33 only for the purpose of enhancing and maintaining correctional  
34 industries work programs.

35        (4) The expansion of inmate employment in class I and class II  
36 correctional industries shall be implemented according to the following  
37 schedule:

1 (a) Not later than June 30, 1995, the secretary shall achieve a net  
2 increase of at least two hundred in the number of inmates employed in  
3 class I or class II correctional industries work programs above the  
4 number so employed on June 30, 1994;

5 (b) Not later than June 30, 1996, the secretary shall achieve a net  
6 increase of at least four hundred in the number of inmates employed in  
7 class I or class II correctional industries work programs above the  
8 number so employed on June 30, 1994;

9 (c) Not later than June 30, 1997, the secretary shall achieve a net  
10 increase of at least six hundred in the number of inmates employed in  
11 class I or class II correctional industries work programs above the  
12 number so employed on June 30, 1994;

13 (d) Not later than June 30, 1998, the secretary shall achieve a net  
14 increase of at least nine hundred in the number of inmates employed in  
15 class I or class II correctional industries work programs above the  
16 number so employed on June 30, 1994;

17 (e) Not later than June 30, 1999, the secretary shall achieve a net  
18 increase of at least one thousand two hundred in the number of inmates  
19 employed in class I or class II correctional industries work programs  
20 above the number so employed on June 30, 1994;

21 (f) Not later than June 30, 2000, the secretary shall achieve a net  
22 increase of at least one thousand five hundred in the number of inmates  
23 employed in class I or class II correctional industries work programs  
24 above the number so employed on June 30, 1994.

25 (5) It shall be in the discretion of the secretary to apportion the  
26 inmates between class I and class II depending on available contracts  
27 and resources.

28 (6) Nothing in this section shall limit the authority of the  
29 department of social and health services division of child support from  
30 taking collection action against an inmate's moneys, assets, or  
31 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

32 **Sec. 3.** RCW 72.09.480 and 1999 c 325 s 1 are each amended to read  
33 as follows:

34 (1) Unless the context clearly requires otherwise, the definitions  
35 in this section apply to this section.

36 (a) "Cost of incarceration" means the cost of providing an inmate  
37 with shelter, food, clothing, transportation, supervision, and other

1 services and supplies as may be necessary for the maintenance and  
2 support of the inmate while in the custody of the department, based on  
3 the average per inmate costs established by the department and the  
4 office of financial management.

5 (b) "Minimum term of confinement" means the minimum amount of time  
6 an inmate will be confined in the custody of the department,  
7 considering the sentence imposed and adjusted for the total potential  
8 earned early release time available to the inmate.

9 (c) "Program" means any series of courses or classes necessary to  
10 achieve a proficiency standard, certificate, or postsecondary degree.

11 (2) When an inmate, except as provided in subsection (~~((6))~~) (7) of  
12 this section, receives any funds in addition to his or her wages or  
13 gratuities, except settlements or awards resulting from legal action,  
14 the additional funds shall be subject to the following deductions (~~((in~~  
15 ~~RCW 72.09.111(1)(a))~~) and the priorities established in chapter 72.11  
16 RCW:

17 (a) Five percent to the public safety and education account for the  
18 purpose of crime victims' compensation;

19 (b) Ten percent to a department personal inmate savings account;

20 (c) Twenty percent to the department to contribute to the cost of  
21 incarceration;

22 (d) Twenty percent for payment of legal financial obligations for  
23 all inmates who have legal financial obligations owing in any  
24 Washington state superior court; and

25 (e) Fifteen percent for any child support owed under a support  
26 order.

27 (3) When an inmate, except as provided in subsection (7) of this  
28 section, receives any funds from a settlement or award resulting from  
29 a legal action, the additional funds shall be subject to the deductions  
30 in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11  
31 RCW.

32 (~~((3))~~) (4) The amount deducted from an inmate's funds under  
33 subsection (2) of this section shall not exceed the department's total  
34 cost of incarceration for the inmate incurred during the inmate's  
35 minimum or actual term of confinement, whichever is longer.

36 (~~((4))~~) (5) The deductions required under subsection (2) of this  
37 section shall not apply to funds received by the department on behalf  
38 of an offender for payment of one fee-based education or vocational

1 program that is associated with an inmate's work program or a placement  
2 decision made by the department under RCW 72.09.460 to prepare an  
3 inmate for work upon release.

4 An inmate may, prior to the completion of the fee-based education  
5 or vocational program authorized under this subsection, apply to a  
6 person designated by the secretary for permission to make a change in  
7 his or her program. The secretary, or his or her designee, may approve  
8 the application based solely on the following criteria: (a) The inmate  
9 has been transferred to another institution by the department for  
10 reasons unrelated to education or a change to a higher security  
11 classification and the offender's current program is unavailable in the  
12 offender's new placement; (b) the inmate entered an academic program as  
13 an undeclared major and wishes to declare a major. No inmate may apply  
14 for more than one change to his or her major and receive the exemption  
15 from deductions specified in this subsection; (c) the educational or  
16 vocational institution is terminating the inmate's current program; or  
17 (d) the offender's training or education has demonstrated that the  
18 current program is not the appropriate program to assist the offender  
19 to achieve a placement decision made by the department under RCW  
20 72.09.460 to prepare the inmate for work upon release.

21 ~~((+5))~~ (6) The deductions required under subsection (2) of this  
22 section shall not apply to any money received by the department, on  
23 behalf of an inmate, from family or other outside sources for the  
24 payment of postage expenses. Money received under this subsection may  
25 only be used for the payment of postage expenses and may not be  
26 transferred to any other account or purpose. Money that remains unused  
27 in the inmate's postage fund at the time of release shall be subject to  
28 the deductions outlined in subsection (2) of this section.

29 ~~((+6))~~ (7) When an inmate sentenced to life imprisonment without  
30 possibility of release or parole, or to death under chapter 10.95 RCW,  
31 receives any funds in addition to his or her gratuities, except  
32 settlements or awards resulting from legal action, the additional funds  
33 shall be subject to: Deductions of five percent to the public safety  
34 and education account for the purpose of crime victims' compensation  
35 ~~((and))~~, twenty percent to the department to contribute to the cost of  
36 incarceration, and fifteen percent to child support payments.

37 ~~((+7))~~ (8) When an inmate sentenced to life imprisonment without  
38 possibility of release or parole, or to death under chapter 10.95 RCW,

1 receives any funds from a settlement or award resulting from a legal  
2 action in addition to his or her gratuities, the additional funds shall  
3 be subject to: Deductions of five percent to the public safety and  
4 education account for the purpose of crime victims' compensation and  
5 twenty percent to the department to contribute to the cost of  
6 incarceration.

7 (9) The interest earned on an inmate savings account created as a  
8 result of the plan in section 4, chapter 325, Laws of 1999 shall be  
9 exempt from the mandatory deductions under this section and RCW  
10 72.09.111.

11 (10) Nothing in this section shall limit the authority of the  
12 department of social and health services division of child support from  
13 taking collection action against an inmate's moneys, assets, or  
14 property pursuant to chapter 26.23, 74.20, or 74.20A RCW including, but  
15 not limited to, the collection of moneys received by the inmate from  
16 settlements or awards resulting from legal action.

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