

HOUSE BILL REPORT

HB 1334

As Passed House:
February 22, 2011

Title: An act relating to civil judgments for assault.

Brief Description: Authorizing civil judgments for assault.

Sponsors: Representatives Nealey, Hurst, Walsh, Johnson, Klippert, Haler, Rodne, Bailey, Short, Dammeier, Pearson, McCune, Warnick, Hinkle, Kelley, Orcutt, Chandler, Rivers, Ross, Schmick and Smith.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/1/11 [DP].

Floor Activity:

Passed House: 2/22/11, 93-1.

Brief Summary of Bill

- Requires the Department of Corrections (DOC) to deduct 15 to 20 percent of an inmate's wages or gratuities for the payment of a civil judgment for assault that has been awarded as monetary damages to a correctional officer or a DOC employee.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 9 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Yvonne Walker (786-7841).

Background:

The Department of Corrections (DOC) provides inmate work programs through the Correctional Industries Board (Board). The Board develops and implements programs that offer inmates employment, work experience and training, and that reduce the cost of housing

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

inmates. To achieve these goals, the Board operates five classes of correctional industry work programs. All inmates working in class I - IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is preformed for the benefit of the community without financial compensation.

Class I Industries. Currently there are no class I Correctional Industry programs in operation at this time. However, the statute requires that inmates working in class I ("free venture") industries are to be paid according to the prevailing wage for comparable work in that locality. There are two models for class I industries authorized under state law — an employer model and a customer model.

Employer model industries are operated and managed by for-profit or nonprofit organizations under contract with the DOC. They produce goods and services for sale to both the public and private sector. Customer model class I industries are operated and managed by the DOC to produce and provide Washington businesses with products or services currently produced only by out-of-state or foreign suppliers. There are currently no customer model class I industries operating in the state.

Inmates working in free venture industries do so at their own choice and are paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located (ranging from today's minimum wage of \$8.67 to \$14.76 per hour). The production of window blinds, metal fabrication, upholstery, concrete work, water-jet cutting, sewing, carabiners, and multi-packaging services, are examples of jobs found in the class I industries work program. Security and custody services are supplied to the participating firm without charge.

An inmate's release date does not preclude specific inmates from working in a class I industry program.

Class II Industries. Class II ("tax reduction") industries are state-owned and operated industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations. Industries in this class must be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may only be sold to public agencies, nonprofit organizations, and to private contractors when the goods purchased will ultimately be used by a public agency or a nonprofit organization. However, to avoid waste or spoilage, by-products and surpluses of timber, agricultural, and animal husbandry enterprises may be sold at private sale or donated to non-profit organizations when there is no public sector market for such goods.

Inmates working in tax reduction industries do so at their own choice and are paid a gratuity which cannot exceed the wage paid for work of a similar nature in the locality in which the industry is located. Class II gratuities range from 55 cents to \$1.55 per hour and includes such jobs as: producing aluminum signs, license plates and tabs, mattresses, asbestos abatement, meat processing, optical lab, engraving, furniture manufacturing, screen printing and embroidery, industrial sewing, and laundry. Security and custody services are provided without charge by the DOC.

Class III Industries. Class III ("Institutional Support") industries are solely operated by the DOC with the objective being to offset tax and other public support costs. Except for inmates who work in training programs, inmates in this class are paid a gratuity ranging between \$30 to \$55 per month. All supervision, management, and custody services are solely provided by the DOC.

Inmates working in class III industries provide maintenance and operation of the DOC's institutions. Ground keepers, barbers, dental assistants, truck drivers, fork-lift operators, mechanics, library aides, typists, and interpreters are examples of jobs found in the class III industries work program.

Class IV Industries. Class IV ("Community Work") industries are operated by the DOC and are designed to provide services in the inmate's resident community. Inmates working in class IV industries provide services at a reduced cost to other state agencies, county and local government, to persons who are poor or infirm, and nonprofit organizations. Local governments that hire inmates must provide supervision service without charge to the state and must pay the inmate a gratuity.

Janitorial services, grounds keeping, litter control, institutional kitchen support, special event seating set-up, wheelchair cleaning, tree planting, forest maintenance, and fire suppression are examples of jobs found in the class IV industries work program.

Inmate Wage Deductions. The DOC is required by statute to take certain mandatory deductions from the gross wages and gratuities of each inmate working in class I through class IV Correctional Industry programs.

For inmates working in class I industries (and others earning at least minimum wage), excluding child support payments, the DOC takes a minimum of 55 percent of the inmates' income. The 55 percent is divided into:

- 5 percent for crime victims' compensation;
- 10 percent for the inmate's savings account;
- 20 percent to the DOC for costs of incarceration; and
- 20 percent for any owed legal financial obligations (LFOs) which can also include restitution for the victim.

In instances where an offender works for a class I industry and owes child support, the Division of Child Support (DCS) has two options: (1) to send a payroll deduction notice directly through the employer to have child support payments withdrawn from the inmate's paycheck each pay-period prior to the inmate receiving the paycheck; or (2) the DCS may issue an order to withhold and deliver child support payments from any inmate who owes child support. Once the DOC receives the order, the funds in the inmate's savings account are sent to the DCS.

For inmates working in class II industries, the DOC takes 65 percent of the inmate's income. The 65 percent is divided as follows:

- 5 percent for crime victims' compensation;
- 10 percent for the inmate's savings account;

- 15 percent to the DOC for costs of incarceration;
- 15 percent for any child support owed; and
- 20 percent for any owed LFOs.

For inmates working in class III industries, the DOC takes 5 percent of the inmate's income for the purpose of crime victim's compensation and 15 percent for any child support owed under a support order.

For inmates working in class IV industries, the DOC takes 5 percent of the inmate's income to contribute to the cost of incarceration and 15 percent for any child support owed under a support order.

Summary of Bill:

A total of 20 percent must be deducted from the wages of an inmate employed in a class I Correctional Industry program and 15 percent from the gratuities of an inmate employed in a class II - IV Correctional Industries program, for payment of a civil judgment for assault.

"Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or a DOC employee entered by a court of competent jurisdiction against an inmate that is based on, or arises from, injury to the correctional officer or the DOC employee caused by the inmate while the correctional officer or employee was acting in the course and scope of his or her employment.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Correctional officers are subject to assaults by inmates on a regular basis. What many people do not realize is how difficult it is for officers to work on a daily basis inside the walls of a prison where offenders are unpredictable.

Currently, a correctional officer has the right to bring a civil case against an inmate for an assault against that officer. However, the current garnishment system is cumbersome, costly, and time consuming in trying to obtain a judgment award from an inmate. Under this bill if the officer is successful in obtaining a monetary judgment against an inmate, the funds will be deducted directly from his or her paycheck.

There is not much that can be done to punish an inmate that already has a sentence of life in prison. Financial deterrence can prove very effective in controlling the behavior of inmates. Other states are already doing this type of deduction. Inmates that choose to engage in violent behavior will be held accountable and will be impacted by this legislation.

(Opposed) None.

Persons Testifying: Representative Nealey, prime sponsor; Brandon Johnson, Minnick-Hayner Attorneys at Law; Bob Maroon, California Staff Assault Task Force; Darren Kelly and Keith Rapp, Washington Staff Assault Task Force; and Nicky Geoghegan, Department of Corrections.

Persons Signed In To Testify But Not Testifying: Fletcher Jimmy, Washington Staff Assault Task Force; and Anna Jancewic, Teamsters 117.