

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1571

Chapter 271, Laws of 2003

(partial veto)

58th Legislature
2003 Regular Session

INMATES--FUNDS--CHILD SUPPORT

EFFECTIVE DATE: 7/27/03

Passed by the House April 25, 2003
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 25, 2003
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved May 14, 2003, with the
exception of section 1, which is vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1571** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 14, 2003 - 2:46 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1571

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

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 ***The legislature also finds the current system of child support***
14 ***collections due from persons confined in state correctional facilities***
15 ***does not facilitate family preservation nor does it promote the best***
16 ***interests of children. Unless otherwise proscribed by federal law or***
17 ***court order, the legislature intends that, particularly in instances of***
18 ***very low payment levels, child support deductions go directly to the***
19 ***person or persons in whose custody the child is and who is responsible***

1 *for the daily support of the child. The legislature does not intend*
2 *the child support system to be a mechanism for the support of*
3 *government, but rather to directly assist children in need of support.*
*Sec. 1 was vetoed. See message at end of chapter.

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

6 (1) The secretary shall deduct from the gross wages or gratuities
7 of each inmate working in correctional industries work programs, taxes
8 and legal financial obligations. The secretary shall also deduct child
9 support payments from the gratuities of each inmate working in class II
10 through class IV correctional industries work programs. The secretary
11 shall develop a formula for the distribution of offender wages and
12 gratuities.

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

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

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

18 (iii) Twenty percent to the department to contribute to the cost of
19 incarceration; and

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

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

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

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

28 (iii) Fifteen percent to the department to contribute to the cost
29 of incarceration; ~~((and))~~

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

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

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

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

3 (i) Five percent for the purpose of crime victims' compensation;
4 and

5 (ii) Fifteen percent for any child support owed under a support
6 order.

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

9 (i) Five percent to the department to contribute to the cost of
10 incarceration; and

11 (ii) Fifteen percent for any child support owed under a support
12 order.

13 Any person sentenced to life imprisonment without possibility of
14 release or parole under chapter 10.95 RCW or sentenced to death shall
15 be exempt from the requirement under (a)(ii) or (b)(ii) of this
16 subsection.

17 The department personal inmate savings account, together with any
18 accrued interest, shall only be available to an inmate at the time of
19 his or her release from confinement, unless the secretary determines
20 that an emergency exists for the inmate, at which time the funds can be
21 made available to the inmate in an amount determined by the secretary.
22 The management of classes I, II, and IV correctional industries may
23 establish an incentive payment for offender workers based on
24 productivity criteria. This incentive shall be paid separately from
25 the hourly wage/gratuity rate and shall not be subject to the specified
26 deduction for cost of incarceration.

27 In the event that the offender worker's wages or gratuity is
28 subject to garnishment for support enforcement, the crime victims'
29 compensation, savings, and cost of incarceration deductions shall be
30 calculated on the net wages after taxes, legal financial obligations,
31 and garnishment.

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

37 (3) The department shall develop the necessary administrative
38 structure to recover inmates' wages and keep records of the amount

1 inmates pay for the costs of incarceration and amenities. All funds
2 deducted from inmate wages under subsection (1) of this section for the
3 purpose of contributions to the cost of incarceration shall be
4 deposited in a dedicated fund with the department and shall be used
5 only for the purpose of enhancing and maintaining correctional
6 industries work programs.

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

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

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

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

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

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

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

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

37 (6) Nothing in this section shall limit the authority of the

1 department of social and health services division of child support from
2 taking collection action against an inmate's moneys, assets, or
3 property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

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

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

8 (a) "Cost of incarceration" means the cost of providing an inmate
9 with shelter, food, clothing, transportation, supervision, and other
10 services and supplies as may be necessary for the maintenance and
11 support of the inmate while in the custody of the department, based on
12 the average per inmate costs established by the department and the
13 office of financial management.

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

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

20 (2) When an inmate, except as provided in subsection ~~((+6+))~~ (7) of
21 this section, receives any funds in addition to his or her wages or
22 gratuities, except settlements or awards resulting from legal action,
23 the additional funds shall be subject to the following deductions ~~((in~~
24 ~~RCW 72.09.111(1)(a))~~) and the priorities established in chapter 72.11
25 RCW:

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

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

29 (c) Twenty percent to the department to contribute to the cost of
30 incarceration;

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

34 (e) Fifteen percent for any child support owed under a support
35 order.

36 (3) When an inmate, except as provided in subsection (7) of this
37 section, receives any funds from a settlement or award resulting from

1 a legal action, the additional funds shall be subject to the deductions
2 in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11
3 RCW.

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

8 ~~((4))~~ (5) The deductions required under subsection (2) of this
9 section shall not apply to funds received by the department on behalf
10 of an offender for payment of one fee-based education or vocational
11 program that is associated with an inmate's work program or a placement
12 decision made by the department under RCW 72.09.460 to prepare an
13 inmate for work upon release.

14 An inmate may, prior to the completion of the fee-based education
15 or vocational program authorized under this subsection, apply to a
16 person designated by the secretary for permission to make a change in
17 his or her program. The secretary, or his or her designee, may approve
18 the application based solely on the following criteria: (a) The inmate
19 has been transferred to another institution by the department for
20 reasons unrelated to education or a change to a higher security
21 classification and the offender's current program is unavailable in the
22 offender's new placement; (b) the inmate entered an academic program as
23 an undeclared major and wishes to declare a major. No inmate may apply
24 for more than one change to his or her major and receive the exemption
25 from deductions specified in this subsection; (c) the educational or
26 vocational institution is terminating the inmate's current program; or
27 (d) the offender's training or education has demonstrated that the
28 current program is not the appropriate program to assist the offender
29 to achieve a placement decision made by the department under RCW
30 72.09.460 to prepare the inmate for work upon release.

31 ~~((5))~~ (6) The deductions required under subsection (2) of this
32 section shall not apply to any money received by the department, on
33 behalf of an inmate, from family or other outside sources for the
34 payment of postage expenses. Money received under this subsection may
35 only be used for the payment of postage expenses and may not be
36 transferred to any other account or purpose. Money that remains unused
37 in the inmate's postage fund at the time of release shall be subject to
38 the deductions outlined in subsection (2) of this section.

1 ~~((+6))~~ (7) When an inmate sentenced to life imprisonment without
2 possibility of release or parole, or to death under chapter 10.95 RCW,
3 receives any funds in addition to his or her gratuities, except
4 settlements or awards resulting from legal action, the additional funds
5 shall be subject to: Deductions of five percent to the public safety
6 and education account for the purpose of crime victims' compensation
7 ~~((and))~~, twenty percent to the department to contribute to the cost of
8 incarceration, and fifteen percent to child support payments.

9 ~~((+7))~~ (8) When an inmate sentenced to life imprisonment without
10 possibility of release or parole, or to death under chapter 10.95 RCW,
11 receives any funds from a settlement or award resulting from a legal
12 action in addition to his or her gratuities, the additional funds shall
13 be subject to: Deductions of five percent to the public safety and
14 education account for the purpose of crime victims' compensation and
15 twenty percent to the department to contribute to the cost of
16 incarceration.

17 (9) The interest earned on an inmate savings account created as a
18 result of the plan in section 4, chapter 325, Laws of 1999 shall be
19 exempt from the mandatory deductions under this section and RCW
20 72.09.111.

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

Passed by the House April 25, 2003.

Passed by the Senate April 25, 2003.

Approved by the Governor May 14, 2003, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 14, 2003.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1,
Substitute House Bill No. 1571 entitled:

"AN ACT Relating to enhancing necessary child support payments;"

This bill enhances child support collections from inmates. I am
pleased to enact a law that will ease collections from incarcerated
persons. Parents in prison should not be relieved of their obligation
to support their children.

However, the intent section of this bill is overly broad and the
language is inappropriate for Revised Code of Washington (RCW),
Chapter 72, State Institutions. Amendments to alter the purpose and
uses of the child support collection system should be made to the
child support chapters, 26.23 RCW, 74.20 RCW, or 74.20A RCW.

For these reasons, I have vetoed section 1 of Substitute House Bill No. 1571.

With the exception of section 1, Substitute House Bill No. 1571 is approved."