Senate Engrossed

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JANICE K. BREWER
SECRETARY OF STATE

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CHAPTER 140

SENATE BILL 1619

AN ACT

AMENDING SECTIONS 31-230, 31-254 AND 31-261, ARIZONA REVISED STATUTES; RELATING TO PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 31-230, Arizona Revised Statutes, is amended to read:

31-230. Prisoner spendable accounts

A. The director shall establish a prisoner spendable account for each prisoner. All monies that are received by a prisoner and that are not required to be deposited in another account shall be deposited in the prisoner's SPENDABLE account.

B. The director shall adopt rules for the disbursement of monies from prisoner spendable accounts.

C. IF THE COURT HAS ORDERED THE PRISONER TO PAY RESTITUTION PURSUANT TO SECTION 13-603, THE DIRECTOR SHALL WITHDRAW A MINIMUM OF TWENTY PER CENT, OR THE BALANCE OWING ON THE RESTITUTION AMOUNT, UP TO A MAXIMUM OF FIFTY PER CENT OF THE MONIES AVAILABLE IN THE PRISONER'S SPENDABLE ACCOUNT EACH MONTH TO PAY THE COURT ORDERED RESTITUTION.

Sec. 2. Section 31-254, Arizona Revised Statutes, is amended to read:

31-254. Compensation for labor performed; price of prison made articles; distribution of earnings; workers' compensation

A. Each prisoner who is engaged in productive work in any state prison or institution under the jurisdiction of the department or a private prison under contract with the department as a part of the prison industries program shall receive for the prisoner's work the compensation that the director determines. The compensation shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance but shall not exceed fifty cents per hour unless the prisoner is employed in an Arizona correctional industries program pursuant to title 41, chapter 11, article 3. If the director enters into a contract pursuant to section 41-1624.01 with a private person, firm, corporation or association the director shall prescribe prisoner compensation of at least two dollars per hour. Compensation shall not be paid to prisoners for attendance at educational training or treatment programs, but compensation may be paid for work training programs.

B. Whenever a price is fixed for any article, material, supply or ~~services~~ SERVICE to be produced, manufactured, supplied or performed in connection with the industries program of the department, the compensation paid to prisoners shall be included as an item of cost in fixing the price.

C. The compensation of prisoners shall be paid out of the fund established pursuant to section 41-1624 or out of funds appropriated for that purpose by the legislature when required.

D. If the compensation due a prisoner is less than two dollars per hour, mandatory deductions shall be taken for the following purposes in the order specified:

1. Twenty-five per cent of the prisoner's gross wages until the prisoner's dedicated discharge account registers a fifty dollar balance.

2. If the prisoner initiates a lawsuit, twenty per cent from all deposits to the prisoner's spendable account until the court fees are collected in full.

3. If the prisoner was convicted of a violation of title 13, chapter 34, eight per cent of the prisoner's wages shall be used exclusively to fund the transition ~~office~~ OFFICES established by section 31-283. All monies collected under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in the transition office fund established by section 31-284.

~~4. If a court has ordered the prisoner to pay restitution pursuant to section 13-603, thirty per cent of the prisoner's compensation shall be spent for the court ordered restitution.~~

~~5.~~ 4. Thirty per cent of the prisoner's wages for court ordered dependent care.

E. If the compensation due a prisoner equals or exceeds two dollars per hour, the director shall credit to the prisoner's spendable account established pursuant to section 31-230 an amount equaling fifty cents per hour for each hour compensation is due plus ten per cent of the adjusted balance remaining after the mandatory deductions are taken. Mandatory deductions shall be taken for the following purposes in the order specified:

1. Twenty-five per cent of the prisoner's gross wages until the prisoner's dedicated discharge account registers a fifty dollar balance.

~~2. If a court has ordered the prisoner to pay restitution, thirty per cent of the prisoner's compensation shall be expended for the court ordered restitution.~~

~~3.~~ 2. If the prisoner initiates a lawsuit, twenty per cent from all deposits to the prisoner's spendable account until the court costs are collected in full.

~~4.~~ 3. Thirty per cent of the prisoner's wages for the room and board costs of maintaining the prisoner at the facility.

~~5.~~ 4. Thirty per cent of the prisoner's wages for court ordered dependent care.

F. After the mandatory deductions and obligations are paid by the prisoner, the remaining monies shall be credited to the prisoner's retention account established by the director pursuant to section 31-261, subsection B.

G. A prisoner may gain access to the prisoner's trust fund or retention account for emergency purposes at the sole discretion of the director.

H. Any monies not expended from the contributing prisoner's trust fund or retention account for the purposes prescribed in subsection E of this section shall be paid to the prisoner ~~upon~~ ON release pursuant to section 31-228.

I. If any prisoner escapes, the director shall determine what portion of the prisoner's earnings shall be forfeited, and the forfeited amount shall be deposited in the special services fund established by section 41-1604.03.

J. This section is not intended to restore, in whole or in part, the civil rights of any prisoner. No prisoner who is compensated under this section shall be considered to be an employee of or employed by this state, the department or any private person, firm, corporation or association engaged in a contract pursuant to section 41-1624.01, and the prisoner does not come within any of the provisions of the workers' compensation provided in title 23, chapter 6 and is not entitled to any benefits under title 23, chapter 6 whether on behalf of the prisoner or of any other person. This subsection does not apply to prisoners who are employed pursuant to a federally certified prison industry enhancement program established pursuant to section 41-1674.

Sec. 3. Section 31-261, Arizona Revised Statutes, is amended to read:

31-261. Sale or exchange of products of individual prisoners

A. Products of individual prisoner enterprise, hobby, craft or art may be marketed to the public.

B. The director is authorized to establish a trust fund, or retention account, for the administration of the marketing programs prescribed by ~~the terms of~~ subsection A of this section or participation in other approved programs, the proceeds of which shall be distributed to the special service fund and the contributing prisoner's account. The fund shall be separate from funds appropriated by the legislature to department support and maintenance.

C. Notwithstanding ~~the provisions of~~ section 31-204, the provision for marketing products of prisoner or inmate ingenuity, skill or patent, as prescribed by the terms of this section, shall be permitted under formal rules to be published by the director.

D. IF THE COURT HAS ORDERED THE PRISONER TO PAY RESTITUTION PURSUANT TO SECTION 13-603, THE DIRECTOR SHALL WITHDRAW A MINIMUM OF TWENTY PER CENT, OR THE BALANCE OWING ON THE RESTITUTION AMOUNT, UP TO A MAXIMUM OF FIFTY PER CENT OF THE MONIES AVAILABLE IN THE PRISONER'S TRUST FUND OR RETENTION ACCOUNT EACH MONTH TO PAY THE COURT ORDERED RESTITUTION.

APPROVED BY THE GOVERNOR APRIL 24, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2007.