
OLR Bill Analysis

HB 5390

AN ACT REPEALING STATUTORY PROVISIONS THAT IMPOSE LIABILITY ON AN INDIVIDUAL FOR REPAYMENT OF COSTS INCURRED WHEN THE INDIVIDUAL WAS INCARCERATED.

SUMMARY

This bill eliminates the Department of Correction (DOC) commissioner's authority to assess an individual with the cost of his or her incarceration by repealing specific provisions in current law.

For incarceration costs incurred before, on, or after the bill passes, the bill eliminates the:

1. state's associated claim against the individual and the authority to use his or her property to satisfy it;
2. attorney general's authority, upon the commissioner's request, to bring enforcement action against the individual;
3. state's authority to place a lien against lawsuit proceeds or inheritance received by a former inmate within 20 years after his or her release; and
4. state's claim against the estate of a former inmate who dies within 20 years after his or her release (§ 10).

The bill also eliminates the commissioner's authority to disburse an inmate's compensation while in custody to offset incarceration costs incurred before, on, or after the bill passes (§ 1).

Upon its passage, the bill additionally eliminates the state's authority to recover incarceration costs through the following mechanisms:

1. disbursing an inmate's income while participating in a work release program (§ 7);

2. reducing certain fines at a per diem rate based on the average cost of incarceration (§§ 4 & 5);
3. reducing a public employee's pension or attaching to certain funds (e.g., insurance contracts) otherwise exempt from creditors (§§ 2 & 9); or
4. reimbursing the state from certain small estates upon a person's death (§§ 3 & 8).

It also makes other technical and conforming changes, including to the DOC's pilot program on the use of inmate labor (§ 6).

EFFECTIVE DATE: Upon passage, and the provisions repealing the state's claim against an individual for such costs (§ 10) and addressing the DOC's disbursement of an inmate's compensation while in custody (§ 1) apply to incarceration costs incurred, before, on, or after the bill passes.

§ 1 — DISBURSEMENT OF COMPENSATION WHILE IN CUSTODY

By law, inmates earn compensation for their services performed while incarcerated (e.g., making license plates). It is deposited in an account and the balance, after certain disbursements (e.g., federal taxes due), is paid to the inmate when he or she is released.

The bill no longer allows the commissioner to disburse the inmate's compensation for the cost of his or her incarceration incurred before, on, or after the bill passes.

§ 7 — WORK RELEASE PROGRAM COMPENSATION

By law, the DOC commissioner may arrange to continue the employment of any person committed to the department's custody (work release program). The law prescribes the priority that the commissioner must follow in disbursing an inmate's compensation under the program (e.g., federal taxes due is the number one priority). The bill eliminates payment for the cost of incarceration from this priority list.

Under current law, inmates in the work release program who are gainfully self-employed must pay the commissioner the cost of their

incarceration or have their participation revoked. The bill also eliminates this requirement.

§ 4 — INMATES HELD IN COMMUNITY CORRECTIONAL CENTERS FOR PAYMENT OF A FINE

Under current law, the DOC commissioner must discharge certain individuals held at a community correctional center for failing to pay a fine once their time served equates to the unpaid fine or its balance using a per diem rate equal to the average daily incarceration cost. The bill no longer sets the per diem rate to the average incarceration cost and instead requires the commissioner to determine the amount.

As under existing law, the bill does not apply to these individuals who are transferred to the judicial branch's Court Support Services Division to perform community service.

§ 5 — CREDIT FOR PRESENTENCE CONFINEMENT

Under current law, certain people confined to a community correctional center or a correctional institution must have each day spent in presentence confinement credited against their sentence at a per diem rate equal to the average daily cost of incarceration as determined by the DOC commissioner. This applies to people confined for committing an offense on or after October 1, 2021, under a mittimus (a civil court order for someone to be arrested and taken to court) or because they were unable to obtain bail or were denied it. In the case of an imposed fine, the bill allows the commissioner to credit days in presentence confinement against the sentence at a per diem rate he determines, rather than requiring him to set the rate at the average daily incarceration cost.

Good Conduct Credit

By law, in addition to any reduction described above, if the person obeys the facility's rules, he or she may generally receive a good conduct reduction of any portion of a fine not remitted or sentence not suspended. Under current law the good conduct credit is set at (1) the rate of ten times the average daily cost of incarceration as determined by the commissioner or (2) 10 days, as the case may be, for each 30 days of presentence confinement. The bill instead allows the commissioner to

set the good conduct credit at (1) the rate he determines or (2) 10 days, as the case may be, for each 30 days of presentence confinement.

§§ 2 & 9 — PENSION REDUCTION OR ATTACHMENT TO FUNDS EXEMPT FROM CREDITORS

By law, when a public official or state or municipal employee is convicted of or pleads guilty or nolo contendere to any crime related to public office, the attorney general must apply to the Superior Court for an order to revoke or reduce the employee’s pension. Under the bill, the court cannot reduce the employee’s pension to cover the cost of his or her incarceration, as permitted under current law (§ 2).

The bill also eliminates the state’s right to recover the cost of incarceration from any annuity or insurance contract, or similar arrangement otherwise exempt from creditors (§ 9).

§§ 3 & 8 — SMALL ESTATES OF DECEASED INMATES

By law, the Department of Administrative Services commissioner may administer certain small estates to recover the cost of providing care and support to the deceased person while he or she was incarcerated. The bill eliminates this authority (§ 3).

Similarly, current law authorizes the Probate Court, when settling a small estate without a will or letter of administration, to reimburse the state for a decedent’s obligation to pay the cost of his or her incarceration. The bill eliminates this authority (§ 8).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 28 Nay 11 (03/29/2022)