

House Bill 2761

Sponsored by Representative BARKER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Corrections to withhold portion of inmate's retained compensation in manner of wage garnishment if department receives notice of judgment including money award entered against inmate for assault or battery of department employee. Directs department to pay withheld compensation to judgment creditor. Directs department to adopt rules to establish withholding and payment procedures.

A BILL FOR AN ACT

1
2 Relating to judgments including money award against inmates; amending ORS 421.437.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 421.437 is amended to read:

5 421.437. (1) Inmates who participate in programs operated by the Department of Corrections or
6 Oregon Corrections Enterprises shall be permitted to retain a portion of compensation earned, if
7 any, for their personal use as determined and established by the Director of the Department of
8 Corrections by rule. The director shall ensure that the rules adopted under this section are designed
9 to:

- 10 (a) Instill in inmates a viable work ethic;
11 (b) Emulate private gainful employment;
12 (c) Encourage productivity; or
13 (d) Maintain the safe, secure and orderly operation and management of department facilities.

14 (2) Except as otherwise required by federal law to permit transportation in interstate commerce
15 of goods, wares or merchandise manufactured, produced or mined, wholly or in part by inmates, the
16 rules adopted under subsection (1) of this section may not authorize inmates engaged in prison work
17 programs to retain for their personal use more than 20 percent of gross compensation paid.

18 **(3)(a) Notwithstanding subsection (2) of this section, if the department receives notice**
19 **that a judgment that includes a money award has been entered against an inmate resulting**
20 **from a civil action for assault or battery of a department employee, the department shall**
21 **withhold a portion of the personal use compensation described in subsection (1) of this sec-**
22 **tion, in an amount not exceeding 10 percent of gross compensation paid, if the compensation**
23 **would otherwise be subject to wage garnishment:**

- 24 **(A) Pursuant to ORS 18.600 to 18.850 for a civil action in an Oregon court; or**
25 **(B) Pursuant to 28 U.S.C. 3201 to 3206 for a civil action in federal court.**

26 **(b) The department shall provide notice to an inmate prior to withholding compensation**
27 **pursuant to paragraph (a) of this subsection.**

28 **(c) The portion of income withheld pursuant to paragraph (a) of this subsection:**

- 29 **(A) Shall be paid directly to the judgment creditor in the manner described in ORS 18.735.**
30 **(B) Is not subject to the processing fee described in ORS 18.736.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(C) May continue to be withheld and paid to the judgment creditor until the judgment**
2 **has been satisfied.**

3 **(D) Is not subject to the exemptions described in ORS 18.385.**

4 **(4) The department shall adopt rules to establish procedures on the withholding of inmate**
5 **compensation and payment of withheld compensation described in subsection (3) of this sec-**
6 **tion.**

7 **(5) As used in this section, the terms “action,” “judgment” and “money award” have the**
8 **meanings given those terms in ORS 18.005.**

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