

SENATE BILL NO. 22—COMMITTEE ON JUDICIARY
(ON BEHALF OF THE DEPARTMENT OF CORRECTIONS)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing deductions from the individual account and wages of an offender. (BDR 16-262)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to correctional institutions; revising the order of priority of certain deductions from the individual account of an offender and from the wages of an offender; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Nevada Constitution entitles a victim of crime to full and timely restitution and requires that all monetary payments, money and property collected from any person ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim. (Nev. Const. Art. 1, § 8A)

Under existing law, the Prisoners’ Personal Property Fund is created as a trust fund. With certain exceptions, an offender in an institution or a facility of the Department of Corrections is required under existing law to deposit all money received by the offender during incarceration in an individual account in the Fund. The Director of the Department is also required under existing law to deposit in the Fund the net wages after certain deductions that are earned by an offender during incarceration and valuables of an offender received during incarceration. (NRS 209.241) With certain exceptions, existing law authorizes the Director of the Department of Corrections to make certain deductions from the individual account of an offender or from the gross wages of an offender, including a deduction to meet an existing obligation for restitution to a victim. Under existing law, such deductions are made in accordance with an order of priority specific to whether the deduction is made from: (1) the individual account of an offender; (2) the wages of an offender whose hourly wage is equal to or greater than the federal minimum wage; or (3) the wages of an offender whose hourly wage is less than the federal minimum wage. (NRS 209.247, 209.463) **Sections 1 and 2** of this bill revise such orders of priority to comport with the relevant provisions in the Nevada Constitution concerning restitution.



* S B 2 2 *

For deductions from the individual account of the offender, **section 1**, in addition to the change in priority of the deduction concerning restitution, revises the order of priority of the following: (1) the deduction for credit to the Fund for the Compensation of Victims of Crime; (2) the deduction to offset the cost of maintaining the offender in the institution; (3) the deduction to repay certain costs or to defray certain expenses; (4) the deduction for expenses related to the release or funeral of the offender; and (5) the deduction for the fee imposed for genetic marker analysis.

For deductions from the wages of an offender whose hourly wage is equal to or greater than the federal minimum wage, **section 2**, in addition to the change in priority of the deduction concerning restitution, revises the order of priority of the following: (1) the deduction for credit to the Fund for the Compensation of Victims of Crime; (2) the deduction for credit to the individual account of the offender; (3) the deduction to offset the cost of maintaining the offender in the institution; and (4) the deduction to repay certain costs or to defray certain expenses.

For deductions from the wages of an offender whose hourly wage is less than the federal minimum wage, **section 2**, in addition to the change in priority of the deduction concerning restitution, revises the order of priority of the following: (1) the deduction for credit to the Fund for the Compensation of Victims of Crime; (2) the deduction for credit to the individual account of the offender; (3) the deduction to offset the cost of maintaining the offender in the institution; (4) the deduction to repay certain costs or to defray certain expenses; (5) the deduction for the fee imposed for genetic marker analysis; and (6) the deduction for expenses related to the release or funeral of the offender.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 209.247 is hereby amended to read as follows:

209.247 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from any money deposited in the individual account of an offender from any source other than the offender's wages:

1. ~~[An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260.~~

~~—2.]~~ An amount the Director considers reasonable to meet an existing obligation of the offender for the support of the offender's family.

2. *An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to a victim of his or her crime.*

3. *An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260.*

4. An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this subsection may include, but is not limited



1 to, an amount to offset the cost of participation by the offender
2 pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic
3 community or a program of aftercare, or both.

4 ~~[4.]~~ 5. A deduction pursuant to NRS 209.246.

5 ~~[5.—An amount determined by the Director for deposit in a~~
6 ~~savings account for the offender, in which interest on the money~~
7 ~~deposited does not accrue, to be used for the payment of the~~
8 ~~expenses of the offender related to his or her release or, if the~~
9 ~~offender dies before his or her release, to defray expenses related to~~
10 ~~arrangements for the offender's funeral.]~~

11 6. An amount the Director considers reasonable to ~~[meet an~~
12 ~~existing obligation of]~~ *pay the balance of any fee imposed upon* the
13 offender for ~~[restitution to a victim of his or her crime.]~~ *genetic*
14 *marker analysis and included in the judgment entered against the*
15 *offender pursuant to NRS 176.0915.*

16 7. An amount the Director considers reasonable to pay the
17 balance of an administrative assessment included in the judgment
18 entered against the offender for each crime for which the offender is
19 incarcerated and the balance of an unpaid administrative assessment
20 included in a judgment entered against the offender for a crime
21 committed in this state for which the offender was previously
22 convicted. An amount deducted from a source other than the wages
23 earned by the offender during his or her incarceration, pursuant to
24 this subsection, must be submitted:

25 (a) If the offender does not have an administrative assessment
26 owing from a judgment entered for a crime previously committed in
27 this state, to the court that entered the judgment against the offender
28 for which he or she is incarcerated.

29 (b) If the offender has an administrative assessment owing from
30 a judgment entered for a crime previously committed in this state, to
31 the court that first entered a judgment for which an administrative
32 assessment is owing, until the balance owing has been paid.

33 8. An amount the Director considers reasonable to pay the
34 balance of a fine included in the judgment entered against the
35 offender for each crime for which the offender is incarcerated and
36 the balance of an unpaid fine included in a judgment entered against
37 the offender for a crime committed in this state for which the
38 offender was previously convicted. An amount deducted from any
39 source other than the wages earned by the offender during his or her
40 incarceration, pursuant to this subsection, must be submitted:

41 (a) If the offender does not have a fine owing from a judgment
42 entered for a crime previously committed in this state, to the court
43 that entered the judgment against the offender for which he or she is
44 incarcerated.



(b) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which any fine or administrative assessment is owing, until the balance owing has been paid.

9. An amount ~~[the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.]~~ *determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release or, if the offender dies before his or her release, to defray expenses related to arrangements for the funeral of the offender.*

➤ The Director shall determine the priority of any other deduction authorized by law from any source other than the wages earned by the offender during his or her incarceration.

Sec. 2. NRS 209.463 is hereby amended to read as follows:

209.463 Except as otherwise provided in NRS 209.2475, the Director may make the following deductions, in the following order of priority, from the wages earned by an offender from any source during the offender's incarceration:

1. If the hourly wage of the offender is equal to or greater than the federal minimum wage:

(a) ~~[An amount the Director deems reasonable for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.~~

~~—(b)—~~ An amount the Director considers reasonable to meet an existing obligation of the offender for the support of his or her family.

(b) An amount the Director considers reasonable to meet an existing obligation of the offender for restitution to a victim of his or her crime.

(c) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.

~~(d) [An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.~~

~~—(e)—~~ An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender



pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

~~(e)~~ (e) A deduction pursuant to NRS 209.246.

~~(g)~~ (f) *An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.*

(g) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to his or her release or, if the offender dies before his or her release, to defray expenses related to arrangements for his or her funeral.

(h) An amount the Director considers reasonable ~~to meet an existing obligation of the offender for restitution to any victim of his or her crime.~~ *for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.*

(i) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.

(j) An amount the Director considers reasonable to pay the balance of an administrative assessment included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid administrative assessment included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:

(1) If the offender does not have an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has an administrative assessment owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which an administrative assessment is owing, until the balance owing has been paid.

(k) An amount the Director considers reasonable to pay the balance of a fine included in the judgment entered against the offender for each crime for which the offender is incarcerated and the balance of an unpaid fine included in a judgment entered against the offender for a crime committed in this state for which the offender was previously convicted. An amount deducted from the wages of the offender pursuant to this paragraph must be submitted:



(1) If the offender does not have a fine owing from a judgment entered for a crime previously committed in this state, to the court that entered the judgment against the offender for which the offender is incarcerated.

(2) If the offender has a fine owing from a judgment entered for a crime previously committed in this state, to the court that first entered a judgment for which a fine or administrative assessment is owing, until the balance owing has been paid.

➤ The Director shall determine the priority of any other deduction authorized by law from the wages earned by the offender from any source during the offender's incarceration.

2. If the hourly wage of the offender is less than the federal minimum wage:

(a) An amount the Director ~~{deems}~~ *considers* reasonable ~~{for deposit with the State Treasurer for credit to the Fund for the Compensation of Victims of Crime.}~~ *to meet an existing obligation of the offender for restitution to a victim of his or her crime.*

(b) An amount determined by the Director, with the approval of the Board, for deposit in the State Treasury for credit to the Fund for New Construction of Facilities for Prison Industries, but only if the offender is employed through a program for prison industries.

(c) ~~{An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.}~~

~~{(d)}~~ An amount determined by the Director, with the approval of the Board, to offset the cost of maintaining the offender in the institution, as reflected in the budget of the Department. An amount deducted pursuant to this paragraph may include, but is not limited to, an amount to offset the cost of participation by the offender pursuant to NRS 209.4231 to 209.4244, inclusive, in a therapeutic community or a program of aftercare, or both.

~~{(e)}~~ (d) A deduction pursuant to NRS 209.246.

~~{(f) An amount the Director considers reasonable to pay the balance of any fee imposed upon the offender for genetic marker analysis and included in the judgment entered against the offender pursuant to NRS 176.0915.}~~

~~{(g)}~~ (e) *An amount determined by the Director for deposit in the individual account of the offender in the Prisoners' Personal Property Fund.*

(f) An amount determined by the Director for deposit in a savings account for the offender, in which interest on the money deposited does not accrue, to be used for the payment of the expenses of the offender related to the offender's release or, if the offender dies before the offender's release, to defray expenses related to arrangements for the offender's funeral.



1 (g) *An amount the Director deems reasonable for deposit with*
2 *the State Treasurer for credit to the Fund for the Compensation of*
3 *Victims of Crime.*

4 (h) *An amount the Director considers reasonable to pay the*
5 *balance of any fee imposed upon the offender for genetic marker*
6 *analysis and included in the judgment entered against the*
7 *offender pursuant to NRS 176.0915.*

8 ➡ The Director shall determine the priority of any other deduction
9 authorized by law from the wages earned by the offender from any
10 source during the offender's incarceration.

11 **Sec. 3.** This act becomes effective on July 1, 2021.

