

AN ACT REPEALING THE DEPARTMENT OF CORRECTION'S POWER TO ASSESS AND COLLECT COST OF INCARCERATION FROM CURRENT AND FORMER INMATES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 18-85 of the general statutes is repealed, and the following is substituted in lieu thereof (effective October 1, 2022):

(a) The Commissioner of Correction, after consultation with the Commissioner of Administrative Services and the Secretary of the Office of Policy and Management, shall establish a schedule of compensation for services performed on behalf of the state by inmates of any institution or facility of the department. Such schedule shall recognize degrees of merit, diligence and skill in order to encourage inmate incentive and industry.

(b) Compensation so earned shall be deposited, under the direction of the Commissioner of Correction, in an account in a savings bank or state bank and trust company in this state or an account administered by the State Treasurer. Any compensation so earned shall be paid to the inmate on the inmate's release from incarceration, except that the commissioner may, while the inmate is in custody, disburse any compensation earned by such inmate in accordance with the following priorities: (1) Federal taxes due; (2) restitution or payment of compensation to a crime victim ordered by any court of competent jurisdiction; (3) payment of a civil judgment rendered in favor of a crime victim by any court of competent jurisdiction; (4) victims compensation through the criminal injuries account administered by the Office of Victim Services; (5) state taxes due; (6) support of the inmate's dependents, if any; (7) the inmate's necessary travel expense to and from work and other incidental expenses; [(8) costs of such inmate's incarceration under section 18-85a and regulations adopted in accordance with said section;] and [(9)] (8) payment to the clerk of the court in which an inmate, confined in a correctional facility only for payment of a fine, was convicted, such portion of such compensation as is necessary to pay such fine. Any interest that accrues shall be credited to any institutional fund established for the welfare of inmates. Compensation under this section shall be in addition to any compensation received or credited under section 18-50.

Section 2. Section 18-85a of the general statutes is repealed.

[(a) The Commissioner of Correction shall adopt regulations, in accordance with the provisions of chapter 54, concerning the assessment of inmates of correctional institutions or facilities for the costs of their incarceration.

(b) The state shall have a claim against each inmate for the costs of such inmate's incarceration under this section, and regulations adopted in accordance with this section, for which the state has not been reimbursed. Any property owned by such inmate may be used to satisfy such claim, except property that is: (1) Exempt pursuant to section 52-352b or 52-352d, except as provided in subsection (b) of section 52-321a; (2) subject to the provisions of section 54-218; (3) acquired by such inmate after the inmate is released from incarceration, but not including property so acquired that is subject to the provisions of section 18-85b, 18-85c or 52-367c, and except as

provided in subsection (b) of section 52-321a; or (4) acquired by such inmate for work performed during incarceration as part of a program designated or defined in regulations adopted by the Commissioner of Correction, in accordance with the provisions of chapter 54, as a job training, skill development or career opportunity or enhancement program, other than a pilot program established pursuant to section 18-90b, except that the commissioner may assess a fee for participation in any such program. In addition to other remedies available at law, the Attorney General, on request of the Commissioner of Correction, may bring an action in the superior court for the judicial district of Hartford to enforce such claim, provided no such action shall be brought but within two years from the date the inmate is released from incarceration or, if the inmate dies while in the custody of the commissioner, within two years from the date of the inmate's death, except that such limitation period shall not apply if such property was fraudulently concealed from the state.]

Section 3. Section 18-85b of the general statutes is repealed.

[(a) In the case of causes of action of any person obligated to pay the costs of such person's incarceration under section 18-85a and regulations adopted in accordance with said section brought by such person within twenty years from the date such person is released from incarceration, the claim of the state shall be a lien against the proceeds therefrom in the amount of the costs of incarceration or fifty per cent of the proceeds received by such person after payment of all expenses connected with the cause of action, whichever is less, for repayment under said section, and shall have priority over all other claims, including any lien of the state for repayment of public assistance, except (1) attorney's fees for the cause of action, (2) expenses of suit, (3) costs of hospitalization connected with the cause of action by whomever paid over and above hospital insurance or other such benefits, and, for such period of hospitalization as was not paid for by the state, physicians' fees for services during any such period as are connected with the cause of action over and above medical insurance or other such benefits, (4) child support obligations pursuant to subsection (d) of section 17b-93, (5) restitution or payment of compensation to a crime victim ordered by a court of competent jurisdiction, and (6) payment of a civil judgment rendered in favor of a crime victim by a court of competent jurisdiction; and such claim shall consist of the total amount of the costs of incarceration under section 18-85a and regulations adopted in accordance with said section. The proceeds of such causes of action shall be assignable to the state for payment of the amount due under section 18-85a, and regulations adopted in accordance with said section, irrespective of any other provision of law. The state's lien shall constitute an irrevocable direction to the attorney for such person to pay the Commissioner of Correction or the commissioner's designee in accordance with its terms, except if, after written notice from the attorney for such person informing the commissioner or the commissioner's designee of the settlement of the cause of action or judgment thereon and requesting the amount of the lien to be paid to the commissioner or the commissioner's designee, the commissioner or the commissioner's designee does not inform such attorney of the amount of the state's lien within forty-five days of receipt of the written request of such attorney for such information, such attorney may distribute such proceeds to such person and shall not be liable for any loss the state may sustain thereby.

(b) In the case of an inheritance of an estate by any person who is obligated to pay the costs of such person's incarceration under section 18-85a and regulations adopted in accordance with

said section that is received by such person within twenty years from the date such person is released from incarceration, the claim of the state shall be a lien against such inheritance in the amount of the costs of incarceration or fifty per cent of the assets of the estate payable to such person, whichever is less. The Court of Probate shall accept any such lien notice filed by the commissioner or the commissioner's designee with the court prior to the distribution of such inheritance, and to the extent of such inheritance not already distributed, the court shall order distribution in accordance therewith.]

Section 4. Section 18-85c of the general statutes is repealed.

[Upon the death of any person obligated to pay the costs of such person's incarceration under section 18-85a and regulations adopted in accordance with said section that occurs within twenty years from the date such person is released from incarceration, the state shall have a claim against such person's estate for all costs of incarceration under the provisions of said section and such regulations for which the state has not been reimbursed, to the extent that the amount which the surviving spouse, parent or dependent children of the decedent would otherwise take from such estate is not needed for their support. Such claim shall have priority over all other unsecured claims against such estate, including any lien of the state for repayment of public assistance, except (1) expenses of last sickness not to exceed three hundred seventy-five dollars, (2) funeral and burial expenses in accordance with that allowed under section 17b-84 upon the death of a beneficiary of aid, (3) child support obligations pursuant to subsection (d) of section 17b-93, (4) restitution or payment of compensation to a crime victim ordered by a court of competent jurisdiction, (5) payment of a civil judgment rendered in favor of a crime victim by a court of competent jurisdiction, and (6) administrative expenses, including probate fees and taxes, and including fiduciary fees not exceeding the following commissions on the value of the whole estates accounted for by such fiduciaries: On the first two thousand dollars or portion thereof, five per cent; on the next eight thousand dollars or portion thereof, four per cent; on the excess over ten thousand dollars, three per cent. Upon petition by any fiduciary, the Court of Probate, after a hearing thereon, may authorize compensation in excess of the above schedule for extraordinary services. Notice of any such petition and hearing shall be given to the Commissioner of Correction at least ten days in advance of such hearing. The allowable funeral and burial payment authorized by this section shall be reduced by the amount of any prepaid funeral arrangement. Any amount paid from the estate under this section to any person that exceeds the limits provided in this section shall be repaid to the estate by such person, and such amount may be recovered in a civil action with interest at the legal rate from the date of demand.]

STATEMENT OF PURPOSE:

To eliminate cost-of-incarceration liens and to end the practice of assessing individuals for the cost of their incarceration in our state.