

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H2/12/13
A Bill

HOUSE BILL 1138

By: Representative Williams

For An Act To Be Entitled

AN ACT TO ALLOW THE DEPARTMENT OF COMMUNITY
CORRECTION TO COLLECT REIMBURSEMENT FROM PERSONS
RESIDING IN COMMUNITY CORRECTION FACILITIES; AND FOR
OTHER PURPOSES.

Subtitle

TO ALLOW THE DEPARTMENT OF COMMUNITY
CORRECTION TO COLLECT REIMBURSEMENT FROM
PERSONS RESIDING IN COMMUNITY CORRECTION
FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 12-29-502 is amended to read as follows:
12-29-502. Definitions.

As used in this subchapter:

- (1) "Board" means the Board of Corrections;
- (2) "Cost of care" means the cost to the Department of
Correction or the Department of Community Correction for providing room,
board, clothing, medical, and other normal living expenses of inmates in the
~~department~~ Department of Correction or the Department of Community
Correction, as determined from time to time by the board;
- (3) "Director" means the Director of the Department of
Correction or the Director of the Department of Community Correction; and
- (4) "Estate" means any tangible or intangible properties, real
or personal, belonging to or due an inmate confined to an institution of the
~~department~~ Department of Correction or the Department of Community



Correction, including income or payments to the inmate from social security, previously earned salary or wages, bonuses, annuities, pensions, or retirement benefits, or any source whatsoever.

SECTION 2. Arkansas Code § 12-29-503 is amended to read as follows:

12-29-503. Monthly reports on prisoners – Investigation.

(a)(1) The Director of the Department of Correction or the Director of the Department of Community Correction shall forward to the Attorney General a list containing the name of each prisoner in the respective penal facilities of the Department of Correction or the Department of Community Correction, the county from which he or she was sentenced, the term of the sentence, the date of admission, together with all information available to the appropriate department on the financial responsibilities of the prisoner.

(2) The report shall be made on forms to be agreed upon by the director and the Attorney General or his or her designated employee and shall be made on or before the tenth day of each month.

(b) The Attorney General shall investigate or cause to be investigated all such reports furnished by the ~~department~~ Department of Correction or the Department of Community Correction for the purpose of securing reimbursement for the expenses of the State of Arkansas for the cost of care of the prisoners.

SECTION 3. Arkansas Code § 12-29-504 is amended to read as follows:

12-29-504. Reimbursement proceedings – Appointment of guardian.

(a)(1) ~~Whenever it shall be found that any~~ When a person has been is admitted to an institution of the Department of Correction as a prisoner or the Department of Community Correction as a resident of a community correction facility, the Attorney General shall petition the circuit court of Pulaski County or the prosecuting attorney of the county from which the person was ~~so~~ sentenced shall petition the circuit court of the county from which the person was sentenced if the person or prisoner possesses any estate or becomes possessed of any estate while he or she remains in the institution.

(2) The petition shall:

(A) State that the person is a prisoner in a penal facility of the ~~department~~ Department of Correction or a resident of a

facility operated by the Department of Community Correction;

(B) State that the Attorney General or prosecuting attorney has good reason to believe and does believe that the prisoner has an estate;

(C) Pray for the appointment of a guardian of the person if a guardian has not already been ~~se~~ appointed; and

(D) Pray that the estate may be subjected to payment to the state of the expenses paid and to be paid by the state on behalf of the person as a prisoner.

(b)(1) The court shall ~~thereupon~~ then issue a citation to show cause why the prayer of the petitioner should not be granted.

(2) If the prisoner of the Department of Correction or resident of a facility operated by the Department of Community Correction has a guardian, the petition shall be served upon the guardian.

(3) If the prisoner of the Department of Correction or resident of a facility operated by the Department of Community Correction has no guardian, the petition shall be served upon the prisoner or resident of a facility operated by the Department of Community Correction by delivering a copy personally, or by registered mail to the warden or head of the penal institution where the prisoner is being detained or, if the person is a resident of a facility operated by the Department of Community Correction, to the Director of the Department of Community Correction, at least fourteen (14) days before the date of the hearing.

(4) The court may appoint a guardian of the person or prisoner.

(c)(1)(A) At the time of the hearing, if it appears that the person or prisoner has an estate that ought to be subject to the claim of the state, the court, without further notice, shall appoint a guardian of the person and estate of the prisoner if the court deems one necessary for the protection of the rights of all parties concerned.

(B)(i) The court shall make an order requiring the guardian or any person or corporation possessing the estate belonging to the prisoner of the Department of Correction or a resident of a facility operated by the Department of Community Correction to appropriate and apply the estate ~~or such part thereof, as may appear to be proper part of the estate as~~ appropriate toward reimbursing the state, to the payment of the expenses so far incurred by the state on behalf of the prisoner and a part ~~thereof~~

~~towards~~ of the estate toward reimbursing the state for the future expenses that it must pay on the prisoner's behalf.

(ii) This reimbursement shall not be in excess of the per capita cost of maintaining prisoners in the institution in which ~~the prisoner~~ he or she is an inmate.

(2)(A) However, before issuing any order under this subchapter providing for payments from the estate of the prisoner for his or her cost of care while confined to an institution of the ~~department~~ Department of Correction or the Department of Community Correction, the court shall take into consideration and make allowances for the maintenance and support of the spouse, dependent children, or other persons having a moral or legal right to support and maintenance out of the estate of the prisoner.

(B) The court shall take those factors into consideration in determining the amount to be paid, if any, from the estate of the prisoner for his or her cost of care at the ~~department~~ Department of Correction or the Department of Community Correction.

(d)(1) If a guardian, person, or corporation ~~shall neglect or refuse~~ neglects or refuses to comply with the order, the court shall cite him or her to appear before the court at a time as it may direct and to show cause why he or she should not be sentenced for contempt of court.

(2) As an additional remedy, the Attorney General or prosecuting attorney may enforce payment of the sums provided in the original order by a proper action in the name of the state.

(3) If, in the opinion of the court, the estate of the prisoner is sufficient to pay the cost of the proceedings, the estate shall be made liable ~~therefor~~ for the cost of the proceedings by order of the court.

(e)(1) The proceedings provided for by this section may be begun at any time after admittance to a penal facility of the ~~department~~ Department of Correction or the Department of Community Correction.

(2) Recovery may be had for the expenses incurred on behalf of a person or prisoner during the entire period the person has been confined as a prisoner in a penal facility of the ~~department~~ Department of Correction or the Department of Community Correction.

SECTION 4. Arkansas Code § 12-29-505 is amended to read as follows:
12-29-505. Duty to furnish information.

It shall be the duty of the sentencing judge, the county sheriff of the county, the Director of the Department of Correction or the Director of the Department of Community Correction, and the warden or administrative head of the penal facility or residential facility in which the person or prisoner is confined to furnish on inquiry to the Attorney General or prosecuting attorney all information and assistance possible to enable the Attorney General or prosecuting attorney to secure reimbursement for the cost of care of the person or prisoner by the State of Arkansas.

SECTION 5. Arkansas Code § 12-29-506 is amended to read as follows:

12-29-506. Duties of Attorney General – Assistance.

(a) ~~It shall be the duty of the Attorney General to~~ The Attorney General shall enforce ~~the provisions of~~ this subchapter.

(b) However, the Attorney General may refer to the prosecuting attorney of the county from which the inmate in the Department of Correction or the person residing in a Department of Community Correction facility was sentenced, or to the prosecuting attorney of the county in which any property or estate of any such inmate is located, to investigate or assist in legal proceedings to obtain the reimbursements for the cost of care of such prisoners, as authorized in this subchapter.

SECTION 6. Arkansas Code § 12-29-507 is amended to read as follows:

12-29-507. Deposit of recovered moneys – Payment of costs.

(a)(1) All moneys recovered for the cost of care of prisoners in a facility of the Department of Correction or the Department of Community Correction under ~~the provisions of~~ this subchapter shall be deposited into the State Treasury.

(2) The Treasurer of State shall credit the moneys to the appropriate fund established by law from which appropriations to the ~~department~~ Department of Correction or the Department of Community Correction are made for inmate care and custody at the ~~department~~ Department of Correction or the Department of Community Correction.

(b) However, the cost of making any investigation necessary to secure the reimbursements provided under this subchapter shall be paid from the reimbursement secured under this subchapter in those instances in which the General Assembly has not otherwise provided funds to defray the cost of the

investigations.

/s/Williams