



Inmate Financial Accountability Workgroup

Report to the Interim Committee of the Legislative Assembly

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INMATE FINANCIAL ACCOUNTABILITY WORKGROUP

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CONTENTS

Introduction	4
Workgroup Establishment	4
The Workgroup’s Process	5
Background.....	5
National Trends.....	5
Workgroup Meetings.....	6
Informational Topics Covered	
Central Trust Accounts.....	7
Central Trust System.....	7
Inmate Welfare Fund.....	7
Ballot Measure 17.....	8
Deposits.....	8
Inmate Awards.....	8
Inmate Purchases.....	9
Inmate Debt Collection.....	9
Recommendations and Next Steps	9
Applicability	9
Funds Subject to Collection	9
Protected Funds	10
Amounts Subject to Collection	10
Mechanics of Money Movement	10
Legislative Action	11

Introduction

In 2015, the Legislature sponsored HB 2761, which would have required the Oregon Department of Corrections (DOC) to garnish a portion of an inmate's wages, if the department received notice of judgment where money had been awarded to a department employee as a result of an inmate assaulting that employee. It would have further directed the department to pay withheld compensation to the judgment creditor, as well as adopt rules to establish withholding and payment procedures.

There were a number of concerns with HB 2761. Many conversations took place

with stakeholders, and HB 2322 was amended to replace HB 2761. HB 2322A would have established a task force on the garnishment of inmate property. The task force would have been charged with studying issues related to the garnishment of DOC inmate property.

Neither bill passed but, subsequently, DOC committed to pulling stakeholders together to allow further discussion to foster a better understanding of DOC's current collection practices and explore recommendations for future legislation.

Workgroup Establishment

The Inmate Financial Accountability Workgroup (IFAW) was established with representatives from DOC and multiple stakeholder groups, including the Association of Oregon Corrections Employees (AOCE), the American Federation of State, County and Municipal Employees (AFSCME), the Oregon District Attorneys Association, crime victim advocates, community corrections, Oregon Citizens United for Rehabilitation of Errants (CURE), Oregon Criminal Defense Lawyers Association, the Oregon Judicial Department, and the Oregon Department of Justice.

Among the issues discussed by workgroup participants were stakeholder interests and concerns related to the collection of funds from DOC inmate trust accounts for the satisfaction of inmate financial obligations, including:

1. Judgments resulting from civil actions for assault or battery against department employees;
2. Victim restitution judgments;
3. Child support judgments;
4. Inmate re-entry savings accounts; and
5. Fines and fees.

Recognizing a variety of interests and positions regarding these issues, DOC committed to the conversation while keeping three primary components in mind:

- Accountability – part of holding inmates accountable is helping them take responsibility for their actions, and paying back victims is an element of that responsibility.

- Safety and security of DOC prisons – changes that impact a large number of inmates can unite the inmate population, creating safety and security concerns.
- Successful transition and re-entry – inmate debt can be a barrier to successful re-entry into the community.

This report summarizes the efforts of the workgroup, identifies current collection processes, presents findings, and includes recommendations.

The Workgroup's Process

Background

The workgroup recognized the need to first understand DOC's current financial practices (regarding inmate funds), as well as the current trust (accounting) system.

The facilitator met individually with each stakeholder prior to the first workgroup meeting. This allowed for initial introductions, the sharing of history and preliminary positions, and a big picture description of the workgroup process.

The workgroup met collectively for the first time December 11, 2015, and continued to meet every four to six weeks.

The meeting agendas contained follow-up items from previous meetings and new testimony. A breakdown of each meeting agenda follows.

National Trends

Working with the Association of State Correctional Administrators, DOC surveyed other states to determine how other departments of corrections manage inmate financial obligations. Based on information received from responding states, survey results indicated:

- Most states use a priority-based collection system.
- Most states use a collection process governed by administrative rule or statute.
- The top priorities seem to be victim assistance funds, victim restitution, and child support.
- Some states have established multiple accounts for each inmate that serve a specific purpose, such as spendable, court obligation, family obligation, and re-entry.
- A few states set priorities based on sources of income, such as wages, outside deposits, or federal funds.
- Most states limit the collection of inmate funds so the inmate has money for discretionary spending.

Workgroup Meetings

The workgroup held its first meeting in December 2015. The meeting invitations were extended to additional interested parties that included several DOC and OCE executives and administrators, who assisted as content experts and technical advisors.

Meeting minutes were taken and made available to workgroup members and interested parties. All meeting presentations, materials, and recorded minutes are available upon request. To request a copy, please contact DOC's Communications Office at 503-945-9999.

A summary of the 2015-16 meetings are provided as follows.

- **Meeting 1**

December 11, 2015 – Salem, Oregon

Agenda Items:

1. Provide member introductions allowing them to describe the group they are representing and any history they have with the issue, and explain the position for which they are advocating.
2. Provide meeting process introduction.
3. Provide legislative background.
4. Explain current state of DOC Central Trust.

- **Meeting 2**

January 25, 2016 – Salem, Oregon

Agenda Items:

1. Review and approve previous meeting minutes.
2. Provide overview of DOC's Performance Recognition and Award System (PRAS).
3. Provide overview of Oregon Corrections Enterprises.
4. Share information related to DOC Central Trust processes and current state.

- **Meeting 3**

March 18, 2016 – Salem, Oregon

Agenda Items:

1. Review and approve previous meeting minutes.
2. Address follow up questions from previous meeting.
3. Provide overview of DOC's Inmate Welfare Fund (IWF).
4. Outline current debt collection practices in other states.

- **Meeting 4**

May 13, 2016 – Salem, Oregon

Agenda Items:

1. Review and approve previous meeting minutes.
2. Share DOC's conceptual proposal.
3. Discuss conceptual proposal.

- **Meeting 5**

June 8, 2016 – Salem, Oregon

Agenda Items:

1. Review and approve previous meeting minutes.
2. Continue discussion of conceptual proposal.
3. Discuss next individual and group responsibilities, timing, reporting, and future meetings or conversations.

- **Meeting 6**

September 7, 2016 – Salem, Oregon

Agenda Items:

1. Review final report.
2. Discuss next steps.

Informational Topics Covered

Central Trust Accounts

Oregon Revised Statute (ORS) 421.125 covers inmate moneys, rules, and fees. Accordingly, it is the responsibility of every inmate to accumulate funds in anticipation of parole, discharge, or other authorized prerelease.

DOC establishes a trust account for each inmate who enters DOC custody. DOC adopted Oregon Administrative Rule (OAR) 291-158-005 Division 158 Trust Account (Inmates) in order to:

- Safeguard inmate moneys;
- Establish a program of release funds;
- Assess and collect fees for self-improvement programs;
- Permit inmates to purchase elective programs, services, or assistance; and
- Assess and collect disciplinary fines and restitution.

Central Trust System

DOC's Central Trust system has not been updated since 2004, and a request to update the software to a current version is included in a Policy Option Package in the DOC 2017-19 Agency Request Budget. Deposits and collections are currently done manually. Additional system enhancements will be required to accommodate the implementation of the recommendations made in this report, necessitating one-time start-up and additional on-going costs associated with accounting and system integration between agencies.

Inmate Welfare Fund

The Inmate Welfare Fund (IWF) is established in ORS 421.068, and must be used to benefit the inmate population. The IWF is primarily funded by the inmate telephone contract, commissary, and some inmate fines. IWF revenue is used to fund alcohol and drug (A&D) programming, inmate recreation expenditures, and some community corrections programs related to transition and release.

Ballot Measure 17

This Law took effect April 1, 1995, and is codified in Article 1, Section 41 of the Oregon Constitution, which:

- Requires all eligible inmates to engage in 40 hours of work and training per week including up to 20 hours of treatment or education.
- Makes compensation of inmate work and training optional.
- Restricts the spending of compensation to reimbursement of rehabilitation costs, victim restitution, support of immediate family, and fines and court costs.

Deposits

Deposits into inmate trust accounts come from many sources such as family and friends, DOC's Performance Recognition and Award System (PRAS), and OCE.

There are other deposits considered to be protected, which include other government funds (tribal), veteran disability, railroad retirement funds, Prison Industry Enhancement Certification Program, and dedicated funds for medical, dental, optical, and emergency trips.

Inmate Awards

DOC does not pay wages. Inmates receive awards from DOC through the Performance Recognition and Award System (PRAS) or from OCE.

- PRAS was implemented in December 1996 under OAR 291-077, allowing DOC to provide discretionary incentives based on behavior and program compliance. These incentives include:
 - Non-monetary awards, which allow tiered access to services and privileges; and
 - Monetary awards, which are determined monthly using a schedule of monetary awards that range from \$8 to \$82 per month, and can be used for discretionary spending on items such as canteen, communication/phone systems, purchase of books/magazines, costs of incentive programming, and sending to family/friends. Five percent of all monetary awards are directed by rule to cover the cost of the Victim Information and Notification Everyday (VINE) system.

DOC provides work opportunities to approximately 8,300 inmates, which is almost 56 percent of DOC's total population. Some examples of work opportunities include landscaping, hair design, food services, firefighting, welding, and gardening.

- OCE was established in 1999 under Ballot Measure 68. OCE is a semi-independent state agency that provides work and on-the-job training to adults in custody. Individuals assigned to OCE programs earn OCE awards through:
 - PRAS, which range from \$8 to \$82 per month;
 - Team Goal Awards (TGA), which range from \$8 to \$82 per month;
 - Individual Meritorious Awards Program (IMAP) up to \$110; and

- Prison Industries Enhancement Certification Program, which is hourly based on comparable work. Inmates receive 20 percent for personal use of total hourly earnings.

On average, OCE provides work opportunities for 1,400 inmates, approximately 10 percent of DOC's total population. These opportunities range from laundry work, to contact centers, to welding.

Inmate Purchases

Common inmate purchases include phone time, canteen items, and other items through a CD28 process (subscriptions, education materials, and to send money out). Any margin generated by telephone and canteen purchases funds the IWF (see IWF above).

At the time of release, funds are transferred to an Oregon Trail Card (OTC) or a check is issued if the inmate is not indebted to DOC.

Inmate Debt Collection

Under OAR 291-158-0065 Indebted Funds, inmates who are indebted to DOC are permitted to spend half of the first \$60 deposited (\$30 max) in a calendar month.

The most common debt collected comes from DOC disciplinary fines and fees and federal and state court-ordered fines and fees. Federal and state court-ordered fines, fees, and restitution can be incurred through judicial review proceedings, habeas corpus and post-conviction cases, tort actions against a public body or through other proceedings as authorized or required by law.

Debt setup on trust accounts is currently a manual entry process. DOC debt collection is programmed and automated, but other debt collection is done manually as well as account balancing after any debt collection.

Recommendations and Next Steps

The workgroup presents the following proposal and recommendations.

Applicability

This concept would apply to adults in the physical custody of DOC. It would not apply to individuals who are:

- On non-prison leave through the Alternative Incarceration Program or Short-Term Transitional Leave;
- Transferred to or from DOC under an Interstate Corrections Compact;
- In the physical custody of the Oregon Youth Authority; or
- In a county jail (funds received in the county jail system would be excluded).

Funds subject to collection

Funds subject to collection would include discretionary monetary awards made by DOC to inmates under the Performance Recognition and Award System (PRAS) out of legislatively-appropriated funds, and funds sent in to DOC inmates from individuals or entities.

Protected funds

Other deposits considered to be protected, that would not be collected, include tribal funds; veteran disability funds; Prison Industries Enhancement funds; funds dedicated for medical, dental, and optical expenses; and funds dedicated for emergency trips.

Amounts subject to collection

If an adult in custody owes any money due as described in this section, other than protected funds, DOC would continue collecting 5 percent of PRAS awards for VINE. DOC would also collect the following from each transaction:

- 10 percent for court-ordered obligations or financial obligations imposed in a criminal action that are collected by the court; and
- 5 percent for re-entry savings (up to \$500).
 - Once re-entry savings reaches \$500, DOC would collect:
 - 15 percent for court-ordered obligations.
 - If no other debt owed, re-entry deposits become optional in 5 percent increments.

Court-ordered obligations would include the items listed below in the following order:

First Priority

1. Compensatory fines
2. Victim's restitution
3. Criminal fines and fees

Second Priority

1. Child support obligations
2. Other victim civil judgments

Third Priority

1. Civil judgments for money damages in favor of DOC and OCE employees arising from assaults and other costs and fees arising from inmate litigation

Mechanics of Money Movement

On a regularly scheduled basis, either monthly or quarterly to be determined through follow-up multi-agency work sessions, using an electronic matching of clients, DOC would receive lists from the Oregon Judicial Department (for financial obligations imposed in a criminal action in a circuit court, including compensatory fines, restitution, and fees) and Oregon DOJ (for child support and, possibly, victim's claims for civil damages) of totals owed by inmates and make lump payments to those agencies. Details will be worked out by all agencies.

Legislative Action

For the purposes agreed upon by the workgroup, legislation will be required to:

- Grant new statutory authority to DOC, and presumably to other affected agencies, to collect and receive/distribute funds to OJD or DOJ or other disbursing agency, or to individuals (e.g., individual crime victims and DOC employees who obtain qualifying civil judgments under criteria mentioned in report), any funds that have been received and credited to inmates' trust accounts, regardless of the source of those funds; and
- Grant DOC statutory authority to protect the forced re-entry savings program from collection.

In addition, funds will be required to cover significant upgrades to DOC's primitive Trust system in order to update the software to a current version, and accommodate system enhancements required to implement the recommendations made in this report.