THE STATE CORRECTIONAL FACILITY REIMBURSEMENT ACT

Act 253 of 1935

AN ACT to provide procedures for securing reimbursement to the state of the expenses incurred by the state for the cost of care of certain prisoners in state correctional facilities; to provide procedures for securing the reimbursement of expenses to be incurred by the state in regard to the future cost of care of such prisoners; and to prescribe certain powers and duties of certain state and local public officers and officials.

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

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The People of the State of Michigan enact:

800.401 Short title.

Sec. 1.

This act shall be known and may be cited as "the state correctional facility reimbursement act."

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.401 ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.401a Definitions.

Sec. 1a.

As used in this act:

(a) "Assets" means property, tangible or intangible, real or personal, belonging to or due a prisoner or former prisoner including income or payments to such prisoner from social security, worker's compensation, veteran's compensation, pension benefits, previously earned salary or wages, bonuses, annuities, retirement benefits, or from any other source whatsoever, but does not include any of the following:

(i) The homestead of the prisoner up to $50,000.00 in value.

(ii) Money saved by the prisoner from wages and bonuses paid the prisoner while he or she was confined to a state correctional facility.

(b) "Cost of care" means the cost to the department for providing transportation, room, board, clothing, security, medical, and other normal living expenses of prisoners, and the cost to the department for providing college-level classes or programs to prisoners, as determined by the department.

(c) "Department" means the department of corrections of this state.

(d) "Director" means the director of the department.

(e) "Prisoner" means any person who is under the jurisdiction of the department and is either confined in any state correctional facility or is under the continuing jurisdiction of the department.

(f) "State correctional facility" means a facility or institution which houses a prisoner population under the jurisdiction of the department. State correctional facility includes a correctional camp, community correction center, state prison, and a state reformatory.

History: Add. 1984, Act 282, Imd. Eff. Dec. 20, 1984 ;-- Am. 1996, Act 286, Imd. Eff. June 17, 1996
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

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800.401b Assets of prisoners; form.

Sec. 1b.

(1) The department shall develop a form which shall be used by the department to obtain information from all prisoners regarding assets of the prisoners.

(2) Upon being developed, the form shall be submitted to each person who is a prisoner as of the date the form is developed and to every person who thereafter is sentenced to imprisonment under the jurisdiction of the department. The form may be resubmitted to a prisoner by the department for purposes of obtaining current information regarding assets of the prisoner.

(3) Every prisoner shall complete the form or provide for completion of the form and the prisoner shall swear or affirm under oath that to the best of his or her knowledge the information provided is complete and accurate.

(4) The department shall have developed the form provided for under this section not later than 30 days after the effective date of this section.

History: Add. 1984, Act 282, Imd. Eff. Dec. 20, 1984
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.402 Forwarding information to attorney general.

Sec. 2.

The director shall forward to the attorney general a report on each prisoner containing a completed form under section 1b together with all other information available on the assets of the prisoner and an estimate of the total cost of care for that prisoner.

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.402 ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.403 Investigation by attorney general; securing reimbursement for cost of care; limitation.

Sec. 3.

(1) The attorney general shall investigate or cause to be investigated all reports furnished under section 2.

(2) If the attorney general upon completing the investigation under subsection (1) has good cause to believe that a prisoner has sufficient assets to recover not less than 10% of the estimated cost of care of the prisoner or 10% of the estimated cost of care of the prisoner for 2 years, whichever is less, the attorney general shall seek to secure reimbursement for the expense of the state of Michigan for the cost of care of that prisoner.

(3) Not more than 90% of the value of the assets of the prisoner may be used for purposes of securing costs and reimbursement under this act.

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.403 ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984

Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

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800.403a Cooperation of prisoner.

Sec. 3a.

(1) A prisoner shall fully cooperate with the state by providing complete financial information for purposes under this act.

(2) The failure of a prisoner to fully cooperate as provided in subsection (1) may be considered for purposes of a parole determination under section 35 of Act No. 232 of the Public Acts of 1953, being section 791.235 of the Michigan Compiled Laws.

History: Add. 1984, Act 282, Imd. Eff. Dec. 20, 1984

Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.404 Exclusive jurisdiction of circuit court; complaint; order to show cause; hearing; order requiring reimbursement; amount; obligation of defendant to support dependents; neglect or refusal to comply with order; contempt; liability of assets; time limitations.

Sec. 4.

(1) The circuit court shall have exclusive jurisdiction over all proceedings under this act. The attorney general may file a complaint in the circuit court for the county from which a prisoner was sentenced, stating that the person is or has been a prisoner in a state correctional facility, that there is good cause to believe that the prisoner has assets, and praying that the assets be used to reimburse the state for the expenses incurred or to be incurred, or both, by the state for the cost of care of the person as a prisoner.

(2) Upon the filing of the complaint under subsection (1), the court shall issue an order to show cause why the prayer of the complainant should not be granted. The complaint and order shall be served upon the prisoner personally or, if the prisoner is confined in a state

correctional facility, by registered mail addressed to the prisoner in care of the chief administrator of the state correctional facility where the prisoner is housed, at least 30 days before the date of hearing on the complaint and order.

(3) At the time of the hearing on the complaint and order, if it appears that the prisoner has any assets which ought to be subjected to the claim of the state under this act, the court shall issue an order requiring any person, corporation, or other legal entity possessed or having custody of those assets to appropriate and apply the assets or a portion thereof toward reimbursing the state as provided for under this act.

(4) The amount of reimbursement under this act shall not be in excess of the per capita cost of care for maintaining prisoners in the state correctional facility in which the prisoner is housed.

(5) At the hearing on the complaint and order and before entering any order on behalf of the state against the defendant, the court shall take into consideration any legal obligation of the defendant to support a spouse, minor children, or other dependents and any moral obligation to support dependents to whom the defendant is providing or has in fact provided support.

(6) If the person, corporation, or other legal entity shall neglect or refuse to comply with an order under subsection (3), the court shall order the person, corporation, or other legal entity to appear before the court at such time as the court may direct and to show cause why the person, corporation, or other legal entity should not be considered in contempt of court.

(7) If, in the opinion of the court, the assets of the prisoner are sufficient to pay the cost of the proceedings under this act, the assets shall be liable for those costs upon order of the court.

(8) The state may recover the expenses incurred or to be incurred, or both, by the state for the cost of care of the prisoner during the entire period or periods the person is a prisoner in a state correctional facility. The state may commence proceedings under this act until the prisoner has been finally discharged on the sentence and is no longer under the jurisdiction of the department.

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History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.404 ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984

Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.404a Remedy, interim order, or enforcement procedure; receiver; execution against homestead prohibited.

Sec. 4a.

(1) Except as provided in subsection (3), in seeking to secure reimbursement under this act, the attorney general may use any remedy, interim order, or enforcement procedure allowed by law or court rule including an ex parte restraining order to restrain the prisoner or any other person or legal entity in possession or having custody of the estate of the prisoner from disposing of certain property pending a hearing on an order to show cause why the particular property should not be applied to reimburse the state as provided for under this act.

(2) To protect and maintain assets pending resolution of an action under this act, the court, upon request, may appoint a receiver.

(3) The attorney general or a prosecuting attorney shall not enforce any judgment obtained under this act by means of execution against the homestead of the prisoner.

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.404a ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.404b Enforcement of act; investigation or assistance of prosecuting attorney; prisoners in work camps.

Sec. 4b.

(1) The attorney general of this state shall enforce the provisions of this act except that the attorney general may request the prosecuting attorney of the county in which the prisoner was sentenced or the prosecuting attorney of the county in which any asset of a prisoner is located to make an investigation or assist in legal proceedings under this act.

(2) The attorney general shall not seek reimbursement under this act for the cost of care of a prisoner in a work camp if the department is being or has been reimbursed for those costs by the prisoner pursuant to section 65c of Act No. 232 of the Public Acts of 1953, being section 791.265c of the Michigan Compiled Laws.

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.404b ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

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800.405 Information and assistance.

Sec. 5.

The sentencing judge, the sheriff of the county, the chief administrator of the state correctional facility, and the department of treasury shall furnish 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 state under this act.

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.405 ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984
Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.406 Disposition of reimbursements; determination of amount due; statements.

Sec. 6.

(1) The costs of any investigations under this act shall be paid from the reimbursements secured under this act, and the balance of the reimbursements shall be credited to the general fund of the state to be available for general fund purposes.

(2) The department of treasury may determine the amount due the state in cases under this act and render statements thereof, and such sworn statements shall be considered prima facie evidence of the amount due.

History: 1935, Act 253, Imd. Eff. June 8, 1935 ;-- CL 1948, 800.406 ;-- Am. 1984, Act 282, Imd. Eff. Dec. 20, 1984

Constitutionality: The Prison Reimbursement Act was intended to apply to all inmates of the state penal system and was not limited to the inmates of the three penal institutions named in the act and in existence at the time of its passage; nor is the act violative of the constitutional guarantee of equal protection. State Treasurer v Wilson, 423 Mich 138; 347 NW2d 770 (1985).

800.407 Repealed. 1984, Act 282, Imd. Eff. Dec. 20, 1984.

Compiler's Notes: This section pertained to applicability of act.

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