

## **IC 11-10-8**

Chapter 8. Minimum Security Release Program for Criminal Offenders and Offender Earnings

### **IC 11-10-8-1**

#### **Application of chapter**

Sec. 1. This chapter applies only to criminal offenders.

*As added by Acts 1979, P.L.120, SEC.3.*

### **IC 11-10-8-2**

#### **Establishment of programs; violent crime offenders**

Sec. 2. (a) Except as provided in subsection (b), the department shall establish a minimum security release program in which eligible committed offenders may be temporarily released from custody to:

- (1) work;
- (2) conduct a business or other self-employed occupation, including housekeeping or attending to family needs;
- (3) attend an academic or vocational training institution or program;
- (4) obtain medical, psychiatric, or psychological treatment, including treatment for drug addiction or alcoholism; or
- (5) accomplish other purposes consistent with programs of the department.

(b) An offender convicted of:

- (1) a violent crime (as defined in IC 5-2-6.1-8); or
- (2) a sex offense under IC 35-42-4 or IC 35-46-1-3;

is not eligible to participate in a minimum security assignment that constitutes an assignment of the offender to a program requiring weekly reporting to a designated official.

*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.136-1989, SEC.2; P.L.2-1992, SEC.110; P.L.47-1993, SEC.5; P.L.144-1995, SEC.1.*

### **IC 11-10-8-3**

#### **Assignment to program; requirements**

Sec. 3. (a) Before an offender may be assigned to a minimum security release program:

(1) the offender must be assigned to a minimum security classification in accord with IC 35-38-3 (any change in the degree of security, from minimum to a higher degree, whether the change occurs before or after assignment to a release program, renders the offender ineligible for participation in the release program, and the department shall take appropriate action for the offender's immediate removal from the release program and reassignment to a facility or program consistent with the offender's degree of security assignment); and

(2) the department must find that:

- (A) the offender is likely to respond affirmatively to the program;
- (B) it is reasonably unlikely that the offender will commit another crime while assigned to the program; and
- (C) the offender demonstrates reading and writing skills that meet minimum literacy standards:

- (i) developed by the department; and

(ii) established under rules adopted by the department under IC 4-22-2.

(b) The minimum literacy standards adopted by the department under subsection (a)(2)(C) must provide that an offender is exempt from those standards if the department determines that:

(1) the offender is unable to meet the minimum literacy standards as a result of a disability;

or

(2) the length of the offender's sentence prevents the offender from achieving the minimum literacy standards before the expiration of the offender's sentence.

*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.150-1987, SEC.1; P.L.23-1993, SEC.34; P.L.1-2005, SEC.124; P.L.1-2007, SEC.101.*

#### **IC 11-10-8-4**

##### **Contracts for confinement of offenders**

Sec. 4. The department may enter into contracts with appropriate city, county, state, or federal authorities for the confinement of, and provision of other correctional services to, offenders; and the city, county, and state authorities may enter into such contracts. If the department determines that an offender participating in a minimum security release program does not require the security of a public detention facility, it may contract with other public or private agencies for his custody and care. *As added by Acts 1979, P.L.120, SEC.3.*

#### **IC 11-10-8-5**

##### **Directives; establishment**

Sec. 5. (a) The department shall establish directives governing:

(1) eligibility and selection of prospective employers for participation in the work release program;

(2) eligibility and selection of institutions and programs for participation in the study release program;

(3) eligibility and selection of hospitals, clinics, or other agencies or individuals for participation in the medical release program;

(4) the procedure by which an offender may apply for participation in a minimum security release program;

(5) custody of an offender during the time he is not actively engaged in the activity to which he is assigned;

(6) conduct of an offender participating in a minimum security release program, including sanctions for violation of rules of conduct;

(7) accounting procedures for the disposition of a participating offender's earnings;

(8) an offender's voluntary or involuntary removal from a minimum security release program;

(9) departmental assistance in obtaining medical treatment or suitable employment, academic, or vocational training in the programs authorized by this chapter; and

(10) any additional matters concerning the general administration of programs authorized by this chapter.

(b) For purposes of IC 4-22-2, the term "directive" as used in this section relates solely to internal policy and procedure not having the force of law.

*As added by Acts 1979, P.L.120, SEC.3.*

## **IC 11-10-8-6 Version a**

### **Earnings of offender; distribution**

*Note: This version of section effective until 7-1-2009. See also following version of this section, effective 7-1-2009.*

Sec. 6. (a) The earnings of an offender employed in a work release program under this chapter, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against the offender, shall be surrendered to the department or its designated representative. The remaining earnings shall be distributed in the following order:

(1) State and federal income taxes and Social Security deductions not otherwise withheld.  
(2) The cost of membership in an employee organization.  
(3) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(4) Not less than fifteen percent (15%) of the offender's gross earnings, if that amount of the gross is available after the above deductions, to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(5) The expense of room and board, as fixed by the department and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(6) Transportation cost to and from work, and other work related incidental expenses.

(7) Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid through other means.

(b) After the amounts prescribed in subsection (a) are deducted, the department may, out of the remaining amount:

(1) when directed by the offender or ordered by the court, pay for the support of the offender's dependents (if the offender's dependents are receiving welfare assistance, the appropriate county office of the division of family resources or welfare department in another state shall be notified of these disbursements); and

(2) with the consent of the offender, pay to the offender's victims or others any unpaid obligations of the offender.

(c) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(4).

(d) The department may, when special circumstances warrant or for just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.2-1992, SEC.111; P.L.4-1993, SEC.14; P.L.5-1993, SEC.27; P.L.47-1993, SEC.6; P.L.1-1994, SEC.44; P.L.146-2008, SEC.370; P.L.44-2009, SEC.6.*

## **IC 11-10-8-6 Version b**

### **Earnings of offender; distribution**

*Note: This version of section effective 7-1-2009. See also preceding version of this section, effective until 7-1-2009.*

Sec. 6. (a) The earnings of an offender employed in a work release program under this chapter, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against the offender, shall be surrendered to the department or its designated representative. The remaining earnings shall be distributed in the following order:

(1) State and federal income taxes and Social Security deductions not otherwise withheld.

(2) The cost of membership in an employee organization.

(3) Ten percent (10%) of the offender's gross earnings, to be deposited in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(4) Not less than fifteen percent (15%) of the offender's gross earnings, if that amount of the gross is available after the above deductions, to be given to the offender or retained by the department. If retained by the department, the amount, with accrued interest, must be returned to the offender not later than at the time of the offender's release on parole or discharge.

(5) The expense of room and board, as fixed by the department and the budget agency, in facilities operated by the department, or, if the offender is housed in a facility not operated by the department, the amount paid by the department to the operator of the facility or other appropriate authority for room and board and other incidentals as established by agreement between the department and the appropriate authority.

(6) Transportation cost to and from work, and other work related incidental expenses.

(7) Court ordered costs or fines imposed as a result of conviction of an offense under Indiana law, unless the costs or fines are being paid through other means.

(8) If an offender is eligible for an offender reentry administrative account under IC 11-10-15, at least ten percent (10%) and not more than twenty percent (20%) of the offender's gross earnings, to be deposited in the offender's reentry administrative account.

(b) After the amounts prescribed in subsection (a) are deducted, the department may, out of the remaining amount:

(1) when directed by the offender or ordered by the court, pay for the support of the offender's dependents (if the offender's dependents are receiving welfare assistance, the appropriate county office of the division of family resources or welfare department in another state shall be notified of these disbursements); and

(2) with the consent of the offender, pay to the offender's victims or others any unpaid obligations of the offender.

(c) Any remaining amount shall be given to the offender or retained by the department in accord with subsection (a)(4).

(d) The department may, when special circumstances warrant or for just cause, waive the collection of room and board charges by or on behalf of a facility operated by the department or, if the offender is housed in a facility not operated by the department, authorize payment of room and board charges from other available funds.

*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.2-1992, SEC.111; P.L.4-1993, SEC.14; P.L.5-1993, SEC.27; P.L.47-1993, SEC.6; P.L.1-1994, SEC.44; P.L.146-2008, SEC.370; P.L.44-2009, SEC.6; P.L.104-2009, SEC.3.*

#### **IC 11-10-8-6.5**

##### **Work release\_study release subsistence special revenue fund**

Sec. 6.5. (a) There is created the work release-study release subsistence special revenue fund to be used for:

- (1) construction of new work release or study release facilities;
- (2) maintenance of work release or study release facilities;
- (3) general operating costs of the work release or study release programs, including offender services;
- (4) providing programs or services established under IC 11-13-8; or
- (5) the matching of federal funds for use in the work release or study release programs.

(b) Money collected under section 6(a)(5) of this chapter shall be deposited in the fund not later than the fifteenth day of the month following the month in which it was received.

(c) Earnings on the money deposited in the fund shall be deposited in the fund.

(d) The commissioner shall submit a proposed budget for expenditure of the money in the fund to the state budget agency for approval in accord with IC 4-12-1.

(e) If the fund is abolished, its contents revert to the state general fund.

(f) Money in the fund is continuously appropriated for the purposes provided under this article.  
*As added by Acts 1980, P.L.88, SEC.2. Amended by P.L.240-1991(ss2), SEC.55.*

#### **IC 11-10-8-7**

##### **Supervision over conditions of employment**

Sec. 7. The department of labor shall exercise the same supervision over conditions of employment for offenders under this chapter as the department of labor does over conditions of employment for persons who are not committed.

*As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.37-1985, SEC.3.*

#### **IC 11-10-8-8**

##### **Status of offender while going to or from employment**

Sec. 8. An offender employed under this chapter by an employer other than the department is not an agent, employee, or involuntary servant of the department while working or going to or from the employment. *As added by Acts 1979, P.L.120, SEC.3.*

#### **IC 11-10-8-9**

##### **Notice to victim before assignment of offender to work release program**

Sec. 9. Before the department may assign an offender to a work release program, the department must notify any victim of the offender's crime of the right to submit a written statement to:

(1) a sentencing court in accordance with IC 11-10-11.5-4.5, if the offender is under consideration for assignment to a community transition program; and

(2) the department, if the offender is under consideration for assignment to any other work release program. If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's assignment to the work release program, the victim is responsible for notifying the department of the name or address change.

*As added by P.L.90-2000, SEC.2.*