

H A R L A N   R I C H A R D S

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Child Support Relief For Prisoners

Then-President Obama finalized updated federal child support guidelines which will afford prisoners relief from onerous child support orders and arrearages.

In Wisconsin, until the mid-1990s, parents who were sent to prison routinely had their child support orders suspended for the duration of their prison sentence. Then one enterprising judge ruled that a prisoner "voluntarily" made himself unemployed by coming to prison and refused to amend the child support order based on the parent coming to prison. He was billed for child support at the rate he was paying based on the job he held before coming to prison. This resulted in huge arrearages being built up while he was in prison that he had to pay upon release. The ruling was upheld on appeal and from that day forward, prisoners were burdened with huge child support orders and built up arrearages.

Fast forward 20 years and it is now standard operating procedure to keep pre-incarceration child support orders in effect during incarceration and to collect 50% (or more) of a prisoner's wages and other income to pay toward arrearages. Along with this came all sorts of surcharges, interest and fees which had to be paid before any money went to support obligations so that virtually all the money collected from the prisoner went to the State and none to the child. The system supported itself by charging prisoners ostensibly for the purpose of helping the children and holding deadbeat dads accountable. It was a farce from start to finish. How any human being sitting as a judge could find this to be fair, just or equitable is beyond me. In my opinion, conservative, ideologically-driven justices (and legislators) who create and enforce systems like this are more monstrous in their behavior than the prisoners they are ~~mis~~mistreating. Yet they are the ones with the exorbitant salaries, high social status and life of ease and comfort.

Fortunately, not all elected officials are like that. Obama is a compassionate man who truly believes prisoners deserve a second chance. Not the sort of second chance they usually get where the conditions and requirements are so stringent and draconian it is virtually impossible to succeed. A person getting out of prison owing tens of thousands of dollars who is forced to begin paying it immediately has very little chance of success. Returning to prison suddenly becomes the better option.

But now there is hope for incarcerated parents. The new federal rules require states to amend child support orders for prisoners to reflect their actual income and bars them from finding that prisoners are "voluntarily" unemployed. Prisoners will no longer be saddled with huge debts based on child support arrearages when they are released from prison. They may actually have a chance to get out and start over - and perhaps become the parent and positive role model their child needs.

See 45 CFR 303.8 and 45 CFR 302.56