

**ASSEMBLY BILL**

**No. 1945**

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**Introduced by Assembly Member Morrell**

February 23, 2012

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An act to add Section 4005.5 to the Penal Code, relating to restitution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1945, as introduced, Morrell. Restitution: county jails.

Existing law requires the court to order a person who is convicted of a crime to pay a restitution fine, as prescribed, and restitution to the victim or victims for the full amount of economic loss, unless the court finds compelling and extraordinary reasons for not doing so and states them on the record. Existing law requires that the Secretary of the Department of Corrections and Rehabilitation deduct a minimum of 20% or the balance owing on the fine amount, whichever is less, up to a maximum of 50% from the wages and trust account deposits of a prisoner for payment of a restitution fine or a restitution order for the victims of the crime. Existing law also requires the secretary to retain certain prescribed administrative fees from the wages and trust account deposits of a prisoner and amounts paid from a settlement or award to satisfy an outstanding restitution order or fine.

This bill would require a county sheriff or correctional administrator to deduct a prescribed amount from the wages and trust account of a prisoner sentenced to a county jail or a person who is subject to postrelease community supervision for the payment of restitution orders to the victims of the crime and restitution fines. The bill would also require, unless prohibited by federal law and in addition to the restitution fines and restitution order, the sheriff or correctional administrator to

deduct and retain prescribed administrative fees. By requiring local sheriffs and correctional administrators to implement these provisions, this bill would impose a state-mandated local program. The Restitution Fund into which the amounts for payment of restitution fines and orders are put is a continuously appropriated fund. By increasing the amount deposited in that fund, this bill would make an appropriation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4005.5 is added to the Penal Code, to  
2 read:  
3 4005.5. (a) In any case in which a prisoner sentenced to county  
4 jail pursuant to subdivision (h) of Section 1170 owes a restitution  
5 fine imposed pursuant to subdivision (a) of Section 13967 of the  
6 Government Code, as operative prior to September 28, 1994,  
7 subdivision (b) of Section 730.6 of the Welfare and Institutions  
8 Code, or subdivision (b) of Section 1202.4, the sheriff or  
9 correctional administrator of the county where the prisoner was  
10 sentenced shall deduct a minimum of 20 percent or the balance  
11 owing on the fine amount, whichever is less, up to a maximum of  
12 50 percent from the wages and trust account deposits of a prisoner,  
13 unless prohibited by federal law, and shall transfer that amount to  
14 the California Victim Compensation and Government Claims  
15 Board for deposit in the Restitution Fund in the State Treasury.  
16 Any amount so deducted shall be credited against the amount  
17 owing on the fine. The sentencing court shall be provided a record  
18 of the payments.  
19 (b) In any case in which a prisoner owes a restitution order  
20 imposed pursuant to subdivision (c) of Section 13967 of the  
21 Government Code, as operative prior to September 28, 1994,  
22 subdivision (h) of Section 730.6 of the Welfare and Institutions

1 Code, or subdivision (f) of Section 1202.4, the sheriff or  
2 correctional administrator of the county where the prisoner was  
3 sentenced shall deduct a minimum of 20 percent or the balance  
4 owing on the order amount, whichever is less, up to a maximum  
5 of 50 percent from the wages and trust account deposits of a  
6 prisoner, unless prohibited by federal law. The sheriff or  
7 correctional administrator shall transfer that amount to the county's  
8 regular collection agent for distribution to the crime victim named  
9 in the restitution order or to the Restitution Fund to the extent that  
10 the victim has received assistance pursuant to that program. The  
11 sentencing court shall be provided a record of the payments made  
12 to victims and of the payments deposited to the Restitution Fund  
13 pursuant to this subdivision.

14 (c) The sheriff or correctional administrator shall deduct and  
15 retain from the wages and trust account deposits of a prisoner,  
16 unless prohibited by federal law, an administrative fee that totals  
17 10 percent of any amounts collected pursuant to subdivision (a)  
18 or (b). This fee is in addition to the total amount of the restitution  
19 order or restitution fine imposed by the sentencing court. The  
20 sheriff or correctional administrator shall deduct and retain from  
21 any prisoner settlement or trial award, an administrative fee that  
22 totals 5 percent of any amount paid from the settlement or award  
23 to satisfy an outstanding restitution order or fine pursuant to  
24 subdivision (j), unless prohibited by federal law. The sheriff or  
25 correctional administrator shall deposit the administrative fee  
26 moneys in a special deposit account for reimbursing administrative  
27 and support costs of the county's restitution program. The sheriff  
28 or correctional administrator, at his or her discretion, may retain  
29 any excess funds in the special deposit account for future  
30 reimbursement of the sheriff's or correctional administrator's  
31 administrative and support costs for the restitution program.

32 (d) In any case in which a person who is subject to postrelease  
33 community supervision or who is sentenced to a term in county  
34 jail pursuant to paragraph (5) of subdivision (h) of Section 1170  
35 and placed under the supervision of the county probation officer  
36 for a portion of that term owes a restitution fine imposed pursuant  
37 to subdivision (a) of Section 13967 of the Government Code, as  
38 operative prior to September 28, 1994, subdivision (b) of Section  
39 730.6 of the Welfare and Institutions Code, or subdivision (b) of  
40 Section 1202.4, the sheriff or correctional administrator may collect

1 from that person any moneys owing on the restitution fine amount,  
2 unless prohibited by federal law. The sheriff or correctional  
3 administrator shall transfer that amount to the California Victim  
4 Compensation and Government Claims Board for deposit in the  
5 Restitution Fund in the State Treasury. Any amount so deducted  
6 shall be credited against the amount owing on the fine. The  
7 sentencing court shall be provided a record of the payments.

8 (e) In any case in which a person who is subject to postrelease  
9 community supervision or who is sentenced to a term in county  
10 jail pursuant paragraph (5) of subdivision (h) of Section 1170 and  
11 placed under the supervision of the county probation officer for a  
12 portion of that term owes a direct order of restitution, imposed  
13 pursuant to subdivision (c) of Section 13967 of the Government  
14 Code, as operative prior to September 28, 1994, subdivision (h)  
15 of Section 730.6 of the Welfare and Institutions Code, or paragraph  
16 (3) of subdivision (a) of Section 1202.4, the sheriff or correctional  
17 administrator may collect from that person any moneys owing,  
18 unless prohibited by federal law. The sheriff or correctional  
19 administrator shall transfer that amount to the county's regular  
20 collection agent for distribution to the crime victim named in the  
21 restitution order or to the California Victim Compensation and  
22 Government Claims Board to the extent that the victim has received  
23 assistance pursuant to that program. The sentencing court shall be  
24 provided a record of the payments made pursuant to this  
25 subdivision.

26 (f) The sheriff or correctional administrator may deduct and  
27 retain from any moneys collected from a person who is subject to  
28 postrelease community supervision or who is sentenced to a term  
29 in county jail pursuant to paragraph (5) of subdivision (h) of  
30 Section 1170 and placed under the supervision of the county  
31 probation officer for a portion of that term an administrative fee  
32 that totals 10 percent of any amounts collected pursuant to  
33 subdivision (d) or (e). This fee is in addition to the total amount  
34 of the restitution order or restitution fine imposed by the sentencing  
35 court. The sheriff or correctional administrator shall deduct and  
36 retain from any prisoner settlement or trial award, an administrative  
37 fee that totals 5 percent of any amount paid from the settlement  
38 or award to satisfy an outstanding restitution order or fine pursuant  
39 to subdivision (j), unless prohibited by federal law. The sheriff or  
40 correctional administrator shall deposit the administrative fee

1 moneys in a special deposit account for reimbursing administrative  
2 and support costs of the county's restitution program. The sheriff  
3 or correctional administrator, at his or her discretion, may retain  
4 any excess funds in the special deposit account for future  
5 reimbursement of the sheriff's or correctional administrator's  
6 administrative and support costs for the restitution program.

7 (g) When a prisoner has both a restitution fine and a restitution  
8 order from the sentencing court, the sheriff or correctional  
9 administrator shall collect the restitution order first pursuant to  
10 subdivision (b).

11 (h) When a person who is subject to postrelease community  
12 supervision or who is sentenced to a term in county jail pursuant  
13 to paragraph (5) of subdivision (h) of Section 1170 and placed  
14 under the supervision of the county probation officer for a portion  
15 of the term has both a restitution fine and a restitution order from  
16 the sentencing court, the sheriff or correctional administrator shall  
17 collect the restitution order first, pursuant to subdivision (e).

18 (i) The exemptions set forth in Section 704.090 of the Code of  
19 Civil Procedure shall not apply to any deductions authorized by  
20 this section.

21 SEC. 2. If the Commission on State Mandates determines that  
22 this act contains costs mandated by the state, reimbursement to  
23 local agencies and school districts for those costs shall be made  
24 pursuant to Part 7 (commencing with Section 17500) of Division  
25 4 of Title 2 of the Government Code.