



CCPA-76

March 6, 1983

This is in reply to your letter of January 11, 1983, concerning a court ordered program for adjudicated juvenile property offenders. Under this program, the juvenile offender works either to repay the victim for losses or damages, or the community with unpaid hours of community service.

You enclosed a copy of the *** State law which amended Chapter 40, Article 5, Section 13b of the *** Code, effective June 13, 1982. That law authorizes State courts to require restitution from juvenile delinquents. You state that the program was adopted by the *** County Judicial Circuit pursuant to that law. *** is designed so that delinquent youths would pay their victims for losses or damages they caused with two-thirds of their disposable earnings from part-time or full-time jobs. You state it is not anticipated that the court order would state that the youths pay two-thirds of disposable earnings to the victim, rather, the court order would adjudge the youths delinquent, place them on probation and in the *** program for a specific period of time, and order the youths to make monetary restitution to the victims for X amount of dollars during the specified period of time.

Payment of restitution could take two forms: (1) A business pays the youth his/her total wages, and then the youth pays the victim two-thirds of the disposable earnings, either directly or through the *** program; and (2) the business pays *** the youth's entire disposable earnings, then *** writes a check to the victim for two-thirds and a check to the youth for one-third of the disposable earnings. In both cases, you state that the *** program plans to have the youth, the youth's parents, and defense counsel for the youth, sign a form authorizing that two-thirds of the youth's disposable earnings from each pay check be paid to the victim.

You ask whether the restrictions of Title III of the Consumer Credit Protection Act on the amount of disposable earnings which may be subjected to garnishment are applicable.

On the basis of our examination of the legislative background of Title III, we have concluded that Congress did not intend that the garnishment restrictions apply to the type of situation provided by the West Virginia law cited above.

It should be noted that the Fair Labor Standards Act (FLSA) may require compensation for the community service employment. The FLSA is the Federal law of most general application regarding wages and hours of work. Its major provisions are briefly discussed in the enclosed "Handy Reference Guide."

Sincerely,

William M. Otter
Administrator