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SENATE BILL 6810

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State of Washington 57th Legislature

2002 Regular Session

By Senators Winsley, Rasmussen, McCaslin, Regala and West

Read first time 02/07/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to costs of supervision for deferred prosecutions;  
2 and amending RCW 10.01.160 and 10.05.170.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 10.01.160 and 1995 c 221 s 1 are each amended to read  
5 as follows:

6 (1) The court may require a defendant to pay costs. Costs may be  
7 imposed only upon a convicted defendant, except for costs imposed upon  
8 a defendant's entry into a deferred prosecution program or costs  
9 imposed upon a defendant for preparing and serving a warrant for  
10 failure to appear.

11 (2) Costs shall be limited to expenses specially incurred by the  
12 state in prosecuting the defendant or in administering the deferred  
13 prosecution program under chapter 10.05 RCW. They cannot include  
14 expenses inherent in providing a constitutionally guaranteed jury trial  
15 or expenditures in connection with the maintenance and operation of  
16 government agencies that must be made by the public irrespective of  
17 specific violations of law. Expenses incurred for serving of warrants  
18 for failure to appear and jury fees under RCW 10.46.190 may be included  
19 in costs the court may require a defendant to pay. Costs for

1 administering a deferred prosecution may not exceed one hundred fifty  
2 dollars including costs for supervision or probation. Costs for  
3 preparing and serving a warrant for failure to appear may not exceed  
4 one hundred dollars. Costs of incarceration imposed on a defendant  
5 convicted of a misdemeanor or a gross misdemeanor may not exceed fifty  
6 dollars per day of incarceration. Payment of other court-ordered  
7 financial obligations, including all legal financial obligations and  
8 costs of supervision take precedence over the payment of the cost of  
9 incarceration ordered by the court. All funds received from defendants  
10 for the cost of incarceration in the county or city jail must be  
11 remitted for criminal justice purposes to the county or city that is  
12 responsible for the defendant's jail costs. Costs imposed constitute  
13 a judgment against a defendant and survive a dismissal of the  
14 underlying action against the defendant. However, if the defendant is  
15 acquitted on the underlying action, the costs for preparing and serving  
16 a warrant for failure to appear do not survive the acquittal, and the  
17 judgment that such costs would otherwise constitute shall be vacated.

18 (3) The court shall not sentence a defendant to pay costs unless  
19 the defendant is or will be able to pay them. In determining the  
20 amount and method of payment of costs, the court shall take account of  
21 the financial resources of the defendant and the nature of the burden  
22 that payment of costs will impose.

23 (4) A defendant who has been sentenced to pay costs and who is not  
24 in contumacious default in the payment thereof may at any time petition  
25 the sentencing court for remission of the payment of costs or of any  
26 unpaid portion thereof. If it appears to the satisfaction of the court  
27 that payment of the amount due will impose manifest hardship on the  
28 defendant or the defendant's immediate family, the court may remit all  
29 or part of the amount due in costs, or modify the method of payment  
30 under RCW 10.01.170.

31 **Sec. 2.** RCW 10.05.170 and 1991 c 247 s 2 are each amended to read  
32 as follows:

33 As a condition of granting deferred prosecution, the court may  
34 order supervision of the petitioner during the period of deferral (~~and~~  
35 ~~may levy a monthly assessment upon the petitioner as provided in RCW~~  
36 ~~10.64.120~~). In a jurisdiction with a probation department, the court  
37 may appoint the probation department to supervise the petitioner. In  
38 a jurisdiction without a probation department, the court may appoint an

1 appropriate person or agency to supervise the petitioner. A supervisor  
2 appointed under this section shall be required to do at least the  
3 following:

4 (1) If the charge for which deferral is granted relates to  
5 operation of a motor vehicle, at least once every six months request  
6 from the department of licensing an abstract of the petitioner's  
7 driving record; and

8 (2) At least once every month make contact with the petitioner or  
9 with any agency to which the petitioner has been directed for treatment  
10 as a part of the deferral.

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