
HOUSE BILL 2231

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Appleton, Roberts, and Santos

Read first time 01/14/14. Referred to Committee on Judiciary.

1 AN ACT Relating to legal financial obligations; and amending RCW
2 9.94A.760 and 9.94B.040.

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

4 **Sec. 1.** RCW 9.94A.760 and 2011 c 106 s 3 are each amended to read
5 as follows:

6 (1) Whenever a person is convicted in superior court, the court may
7 order the payment of a legal financial obligation as part of the
8 sentence. The court must on either the judgment and sentence or on a
9 subsequent order to pay, designate the total amount of a legal
10 financial obligation and segregate this amount among the separate
11 assessments made for restitution, costs, fines, and other assessments
12 required by law. On the same order, the court is also to set a sum
13 that the offender is required to pay on a monthly basis towards
14 satisfying the legal financial obligation. If the court fails to set
15 the offender monthly payment amount, the department shall set the
16 amount if the department has active supervision of the offender,
17 otherwise the county clerk shall set the amount. Upon receipt of an
18 offender's monthly payment, restitution shall be paid prior to any
19 payments of other monetary obligations. After restitution is

1 satisfied, the county clerk shall distribute the payment proportionally
2 among all other fines, costs, and assessments imposed, unless otherwise
3 ordered by the court.

4 (2) If the court determines that the offender, at the time of
5 sentencing, has the means to pay for the cost of incarceration, the
6 court may require the offender to pay for the cost of incarceration at
7 a rate of fifty dollars per day of incarceration, if incarcerated in a
8 prison, or the court may require the offender to pay the actual cost of
9 incarceration per day of incarceration, if incarcerated in a county
10 jail. In no case may the court require the offender to pay more than
11 one hundred dollars per day for the cost of incarceration. Payment of
12 other court-ordered financial obligations, including all legal
13 financial obligations and costs of supervision shall take precedence
14 over the payment of the cost of incarceration ordered by the court.
15 All funds recovered from offenders for the cost of incarceration in the
16 county jail shall be remitted to the county and the costs of
17 incarceration in a prison shall be remitted to the department.

18 (3) The court may add to the judgment and sentence or subsequent
19 order to pay a statement that a notice of payroll deduction is to be
20 issued immediately. If the court chooses not to order the immediate
21 issuance of a notice of payroll deduction at sentencing, the court
22 shall add to the judgment and sentence or subsequent order to pay a
23 statement that a notice of payroll deduction may be issued or other
24 income-withholding action may be taken, without further notice to the
25 offender if a monthly court-ordered legal financial obligation payment
26 is not paid when due, and an amount equal to or greater than the amount
27 payable for one month is owed.

28 If a judgment and sentence or subsequent order to pay does not
29 include the statement that a notice of payroll deduction may be issued
30 or other income-withholding action may be taken if a monthly legal
31 financial obligation payment is past due, the department or the county
32 clerk may serve a notice on the offender stating such requirements and
33 authorizations. Service shall be by personal service or any form of
34 mail requiring a return receipt.

35 (4) Independent of the department or the county clerk, the party or
36 entity to whom the legal financial obligation is owed shall have the
37 authority to use any other remedies available to the party or entity to
38 collect the legal financial obligation. These remedies include

1 enforcement in the same manner as a judgment in a civil action by the
2 party or entity to whom the legal financial obligation is owed.
3 Restitution collected through civil enforcement must be paid through
4 the registry of the court and must be distributed proportionately
5 according to each victim's loss when there is more than one victim.
6 The judgment and sentence shall identify the party or entity to whom
7 restitution is owed so that the state, party, or entity may enforce the
8 judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or
9 9.94A.753(6) to a victim of rape of a child or a victim's child born
10 from the rape, the Washington state child support registry shall be
11 identified as the party to whom payments must be made. Restitution
12 obligations arising from the rape of a child in the first, second, or
13 third degree that result in the pregnancy of the victim may be enforced
14 for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6).
15 All other legal financial obligations for an offense committed prior to
16 July 1, 2000, may be enforced at any time during the ten-year period
17 following the offender's release from total confinement or within ten
18 years of entry of the judgment and sentence, whichever period ends
19 later. Prior to the expiration of the initial ten-year period, the
20 superior court may extend the criminal judgment an additional ten years
21 for payment of legal financial obligations including crime victims'
22 assessments. All other legal financial obligations for an offense
23 committed on or after July 1, 2000, may be enforced at any time the
24 offender remains under the court's jurisdiction. For an offense
25 committed on or after July 1, 2000, the court shall retain jurisdiction
26 over the offender, for purposes of the offender's compliance with
27 payment of the legal financial obligations, until the obligation is
28 completely satisfied, regardless of the statutory maximum for the
29 crime. The department may only supervise the offender's compliance
30 with payment of the legal financial obligations during any period in
31 which the department is authorized to supervise the offender in the
32 community under RCW 9.94A.728, 9.94A.501, or in which the offender is
33 confined in a state correctional institution or a correctional facility
34 pursuant to a transfer agreement with the department, and the
35 department shall supervise the offender's compliance during any such
36 period. The department is not responsible for supervision of the
37 offender during any subsequent period of time the offender remains
38 under the court's jurisdiction. The county clerk is authorized to

1 collect unpaid legal financial obligations at any time the offender
2 remains under the jurisdiction of the court for purposes of his or her
3 legal financial obligations.

4 (5) In order to assist the court in setting a monthly sum that the
5 offender must pay during the period of supervision, the offender is
6 required to report to the department for purposes of preparing a
7 recommendation to the court. When reporting, the offender is required,
8 under oath, to respond truthfully and honestly to all questions
9 concerning present, past, and future earning capabilities and the
10 location and nature of all property or financial assets. The offender
11 is further required to bring all documents requested by the department.

12 (6) After completing the investigation, the department shall make
13 a report to the court on the amount of the monthly payment that the
14 offender should be required to make towards a satisfied legal financial
15 obligation.

16 (7)(a) During the period of supervision, the department may make a
17 recommendation to the court that the offender's monthly payment
18 schedule be modified so as to reflect a change in financial
19 circumstances. If the department sets the monthly payment amount, the
20 department may modify the monthly payment amount without the matter
21 being returned to the court. During the period of supervision, the
22 department may require the offender to report to the department for the
23 purposes of reviewing the appropriateness of the collection schedule
24 for the legal financial obligation. During this reporting, the
25 offender is required under oath to respond truthfully and honestly to
26 all questions concerning earning capabilities and the location and
27 nature of all property or financial assets. The offender shall bring
28 all documents requested by the department in order to prepare the
29 collection schedule.

30 (b) Subsequent to any period of supervision, or if the department
31 is not authorized to supervise the offender in the community, the
32 county clerk may make a recommendation to the court that the offender's
33 monthly payment schedule be modified so as to reflect a change in
34 financial circumstances. If the county clerk sets the monthly payment
35 amount, or if the department set the monthly payment amount and the
36 department has subsequently turned the collection of the legal
37 financial obligation over to the county clerk, the clerk may modify the
38 monthly payment amount without the matter being returned to the court.

1 During the period of repayment, the county clerk may require the
2 offender to report to the clerk for the purpose of reviewing the
3 appropriateness of the collection schedule for the legal financial
4 obligation. During this reporting, the offender is required under oath
5 to respond truthfully and honestly to all questions concerning earning
6 capabilities and the location and nature of all property or financial
7 assets. The offender shall bring all documents requested by the county
8 clerk in order to prepare the collection schedule.

9 (8) After the judgment and sentence or payment order is entered,
10 the department is authorized, for any period of supervision, to collect
11 the legal financial obligation from the offender. Subsequent to any
12 period of supervision or, if the department is not authorized to
13 supervise the offender in the community, the county clerk is authorized
14 to collect unpaid legal financial obligations from the offender. Any
15 amount collected by the department shall be remitted daily to the
16 county clerk for the purpose of disbursements. The department and the
17 county clerks are authorized, but not required, to accept credit cards
18 as payment for a legal financial obligation, and any costs incurred
19 related to accepting credit card payments shall be the responsibility
20 of the offender.

21 (9) The department or any obligee of the legal financial obligation
22 may seek a mandatory wage assignment for the purposes of obtaining
23 satisfaction for the legal financial obligation pursuant to RCW
24 9.94A.7701. Any party obtaining a wage assignment shall notify the
25 county clerk. The county clerks shall notify the department, or the
26 administrative office of the courts, whichever is providing the monthly
27 billing for the offender.

28 (10) The requirement that the offender pay a monthly sum towards a
29 legal financial obligation constitutes a condition or requirement of a
30 sentence and the offender is subject to the penalties for noncompliance
31 as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740. However, if the
32 court determines that the offender is homeless or a person who is
33 mentally ill, as defined in RCW 71.24.025, failure to pay is not
34 willful noncompliance and shall not subject the offender to penalties.

35 (11)(a) The administrative office of the courts shall mail
36 individualized periodic billings to the address known by the office for
37 each offender with an unsatisfied legal financial obligation.

1 (b) The billing shall direct payments, other than outstanding cost
2 of supervision assessments under RCW 9.94A.780, parole assessments
3 under RCW 72.04A.120, and cost of probation assessments under RCW
4 9.95.214, to the county clerk, and cost of supervision, parole, or
5 probation assessments to the department.

6 (c) The county clerk shall provide the administrative office of the
7 courts with notice of payments by such offenders no less frequently
8 than weekly.

9 (d) The county clerks, the administrative office of the courts, and
10 the department shall maintain agreements to implement this subsection.

11 (12) The department shall arrange for the collection of unpaid
12 legal financial obligations during any period of supervision in the
13 community through the county clerk. The department shall either
14 collect unpaid legal financial obligations or arrange for collections
15 through another entity if the clerk does not assume responsibility or
16 is unable to continue to assume responsibility for collection pursuant
17 to subsection (4) of this section. The costs for collection services
18 shall be paid by the offender.

19 (13) The county clerk may access the records of the employment
20 security department for the purposes of verifying employment or income,
21 seeking any assignment of wages, or performing other duties necessary
22 to the collection of an offender's legal financial obligations.

23 (14) Nothing in this chapter makes the department, the state, the
24 counties, or any state or county employees, agents, or other persons
25 acting on their behalf liable under any circumstances for the payment
26 of these legal financial obligations or for the acts of any offender
27 who is no longer, or was not, subject to supervision by the department
28 for a term of community custody, and who remains under the jurisdiction
29 of the court for payment of legal financial obligations.

30 **Sec. 2.** RCW 9.94B.040 and 2002 c 175 s 8 are each amended to read
31 as follows:

32 (1) If an offender violates any condition or requirement of a
33 sentence, the court may modify its order of judgment and sentence and
34 impose further punishment in accordance with this section.

35 (2) In cases where conditions from a second or later sentence of
36 community supervision begin prior to the term of the second or later

1 sentence, the court shall treat a violation of such conditions as a
2 violation of the sentence of community supervision currently being
3 served.

4 (3) If an offender fails to comply with any of the requirements or
5 conditions of a sentence the following provisions apply:

6 (a)(i) Following the violation, if the offender and the department
7 make a stipulated agreement, the department may impose sanctions such
8 as work release, home detention with electronic monitoring, work crew,
9 community restitution, inpatient treatment, daily reporting, curfew,
10 educational or counseling sessions, supervision enhanced through
11 electronic monitoring, jail time, or other sanctions available in the
12 community.

13 (ii) Within seventy-two hours of signing the stipulated agreement,
14 the department shall submit a report to the court and the prosecuting
15 attorney outlining the violation or violations, and sanctions imposed.
16 Within fifteen days of receipt of the report, if the court is not
17 satisfied with the sanctions, the court may schedule a hearing and may
18 modify the department's sanctions. If this occurs, the offender may
19 withdraw from the stipulated agreement.

20 (iii) If the offender fails to comply with the sanction
21 administratively imposed by the department, the court may take action
22 regarding the original noncompliance. Offender failure to comply with
23 the sanction administratively imposed by the department may be
24 considered an additional violation.

25 (b) In the absence of a stipulated agreement, or where the court is
26 not satisfied with the department's sanctions as provided in (a) of
27 this subsection, the court, upon the motion of the state, or upon its
28 own motion, shall require the offender to show cause why the offender
29 should not be punished for the noncompliance. The court may issue a
30 summons or a warrant of arrest for the offender's appearance;

31 (c) The state has the burden of showing noncompliance by a
32 preponderance of the evidence. If the court finds that the violation
33 has occurred, it may order the offender to be confined for a period not
34 to exceed sixty days for each violation, and may (i) convert a term of
35 partial confinement to total confinement, (ii) convert community
36 restitution obligation to total or partial confinement, (iii) convert
37 monetary obligations, except restitution and the crime victim penalty
38 assessment, to community restitution hours at the rate of the state

1 minimum wage as established in RCW 49.46.020 for each hour of community
2 restitution, or (iv) order one or more of the penalties authorized in
3 (a)(i) of this subsection. Any time served in confinement awaiting a
4 hearing on noncompliance shall be credited against any confinement
5 order by the court;

6 (d) If the court finds that the violation was not willful, the
7 court may modify its previous order regarding payment of legal
8 financial obligations and regarding community restitution obligations.
9 If the violation is nonpayment of legal financial obligations and the
10 court determines that the offender is homeless or a person who is
11 mentally ill, as defined in RCW 71.24.025, the failure to pay is not a
12 willful violation; and

13 (e) If the violation involves a failure to undergo or comply with
14 mental status evaluation and/or outpatient mental health treatment, the
15 community corrections officer shall consult with the treatment provider
16 or proposed treatment provider. Enforcement of orders concerning
17 outpatient mental health treatment must reflect the availability of
18 treatment and must pursue the least restrictive means of promoting
19 participation in treatment. If the offender's failure to receive care
20 essential for health and safety presents a risk of serious physical
21 harm or probable harmful consequences, the civil detention and
22 commitment procedures of chapter 71.05 RCW shall be considered in
23 preference to incarceration in a local or state correctional facility.

24 (4) The community corrections officer may obtain information from
25 the offender's mental health treatment provider on the offender's
26 status with respect to evaluation, application for services,
27 registration for services, and compliance with the supervision plan,
28 without the offender's consent, as described under RCW 71.05.630.

29 (5) An offender under community placement or community supervision
30 who is civilly detained under chapter 71.05 RCW, and subsequently
31 discharged or conditionally released to the community, shall be under
32 the supervision of the department of corrections for the duration of
33 his or her period of community placement or community supervision.
34 During any period of inpatient mental health treatment that falls
35 within the period of community placement or community supervision, the
36 inpatient treatment provider and the supervising community corrections
37 officer shall notify each other about the offender's discharge,
38 release, and legal status, and shall share other relevant information.

1 (6) Nothing in this section prohibits the filing of escape charges
2 if appropriate.

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