
SUBSTITUTE SENATE BILL 6220

State of Washington

66th Legislature

2020 Regular Session

By Senate Law & Justice (originally sponsored by Senators Dhingra, Das, Darneille, Hasegawa, and Kuderer)

READ FIRST TIME 01/24/20.

1 AN ACT Relating to restitution; amending RCW 9.94A.750 and
2 9.94A.753; and creating a new section.

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

4 **Sec. 1.** RCW 9.94A.750 and 2018 c 123 s 1 are each amended to
5 read as follows:

6 This section applies to offenses committed on or before July 1,
7 1985.

8 (1) If restitution is ordered, the court shall determine the
9 amount of restitution due at the sentencing hearing or within one
10 hundred eighty days. The court may continue the hearing beyond the
11 one hundred eighty days for good cause. The court shall then set a
12 minimum monthly payment that the offender is required to make towards
13 the restitution that is ordered. The court shall not issue any order
14 that postpones the commencement of restitution payments until after
15 the offender is released from total confinement. The court should
16 take into consideration the total amount of the restitution owed, the
17 offender's present, past, and future ability to pay, as well as any
18 assets that the offender may have. An offender's inability to make
19 restitution payments while in total confinement may not be the basis
20 for a violation of his or her sentence unless his or her inability to
21 make payments resulted from a refusal to accept an employment offer

1 to a class I or class II job or a termination for cause from such a
2 job.

3 (2) During the period of supervision, the community corrections
4 officer may examine the offender to determine if there has been a
5 change in circumstances that warrants an amendment of the monthly
6 payment schedule. The community corrections officer may recommend a
7 change to the schedule of payment and shall inform the court of the
8 recommended change and the reasons for the change. The sentencing
9 court may then reset the monthly minimum payments based on the report
10 from the community corrections officer of the change in
11 circumstances.

12 (3) Except as provided in subsection (6) of this section,
13 restitution ordered by a court pursuant to a criminal conviction
14 shall be based on easily ascertainable damages for injury to or loss
15 of property, actual expenses incurred for treatment for injury to
16 persons, and lost wages resulting from injury. Restitution shall not
17 include reimbursement for damages for mental anguish, pain and
18 suffering, or other intangible losses, but may include the costs of
19 counseling reasonably related to the offense. The amount of
20 restitution shall not exceed double the amount of the offender's gain
21 or the victim's loss from the commission of the offense.

22 (4) For the purposes of this section, the offender shall remain
23 under the court's jurisdiction for a term of ten years following the
24 offender's release from total confinement or ten years subsequent to
25 the entry of the judgment and sentence, whichever period is longer.
26 Prior to the expiration of the initial ten-year period, the superior
27 court may extend jurisdiction under the criminal judgment an
28 additional ten years for payment of restitution. The portion of the
29 sentence concerning restitution may be modified as to amount, terms
30 and conditions during either the initial ten-year period or
31 subsequent ten-year period if the criminal judgment is extended,
32 regardless of the expiration of the offender's term of community
33 supervision and regardless of the statutory maximum sentence for the
34 crime. The court may not reduce the total amount of restitution
35 ordered because the offender may lack the ability to pay the total
36 amount. The offender's compliance with the restitution shall be
37 supervised by the department only during any period which the
38 department is authorized to supervise the offender in the community
39 under RCW 9.94A.728, 9.94A.501, or in which the offender is in
40 confinement in a state correctional institution or a correctional

1 facility pursuant to a transfer agreement with the department, and
2 the department shall supervise the offender's compliance during any
3 such period. The department is responsible for supervision of the
4 offender only during confinement and authorized supervision and not
5 during any subsequent period in which the offender remains under the
6 court's jurisdiction. The county clerk is authorized to collect
7 unpaid restitution at any time the offender remains under the
8 jurisdiction of the court for purposes of his or her legal financial
9 obligations.

10 (5) Restitution may be ordered whenever the offender is convicted
11 of an offense which results in injury to any person or damage to or
12 loss of property or as provided in subsection (6) of this section. In
13 addition, restitution may be ordered to pay for an injury, loss, or
14 damage if the offender pleads guilty to a lesser offense or fewer
15 offenses and agrees with the prosecutor's recommendation that the
16 offender be required to pay restitution to a victim of an offense or
17 offenses which are not prosecuted pursuant to a plea agreement.

18 (6) Restitution for the crime of rape of a child in the first,
19 second, or third degree, in which the victim becomes pregnant, shall
20 include: (a) All of the victim's medical expenses that are associated
21 with the rape and resulting pregnancy; and (b) child support for any
22 child born as a result of the rape if child support is ordered
23 pursuant to a proceeding in superior court or administrative order
24 for support for that child. The clerk must forward any restitution
25 payments made on behalf of the victim's child to the Washington state
26 child support registry under chapter 26.23 RCW. Identifying
27 information about the victim and child shall not be included in the
28 order. The offender shall receive a credit against any obligation
29 owing under the administrative or superior court order for support of
30 the victim's child. For the purposes of this subsection, the offender
31 shall remain under the court's jurisdiction until the offender has
32 satisfied support obligations under the superior court or
33 administrative order but not longer than a maximum term of twenty-
34 five years following the offender's release from total confinement or
35 twenty-five years subsequent to the entry of the judgment and
36 sentence, whichever period is longer. The court may not reduce the
37 total amount of restitution ordered because the offender may lack the
38 ability to pay the total amount. The department shall supervise the
39 offender's compliance with the restitution ordered under this
40 subsection.

1 (7) In addition to any sentence that may be imposed, an offender
2 who has been found guilty of an offense involving fraud or other
3 deceptive practice or an organization which has been found guilty of
4 any such offense may be ordered by the sentencing court to give
5 notice of the conviction to the class of persons or to the sector of
6 the public affected by the conviction or financially interested in
7 the subject matter of the offense by mail, by advertising in
8 designated areas or through designated media, or by other appropriate
9 means.

10 (8) This section does not limit civil remedies or defenses
11 available to the victim or offender including support enforcement
12 remedies for support ordered under subsection (6) of this section for
13 a child born as a result of a rape of a child victim. The court shall
14 identify in the judgment and sentence the victim or victims entitled
15 to restitution and what amount is due each victim. The state or
16 victim may enforce the court-ordered restitution in the same manner
17 as a judgment in a civil action. Restitution collected through civil
18 enforcement must be paid through the registry of the court and must
19 be distributed proportionately according to each victim's loss when
20 there is more than one victim.

21 (9) At any time, the court may determine that the offender is not
22 required to pay, or may relieve the offender of the requirement to
23 pay, full or partial restitution to any insurance provider authorized
24 under Title 48 RCW if the offender reasonably satisfies the court
25 that he or she does not have the means to make full or partial
26 restitution to the insurance provider.

27 **Sec. 2.** RCW 9.94A.753 and 2018 c 123 s 2 are each amended to
28 read as follows:

29 This section applies to offenses committed after July 1, 1985.

30 (1) When restitution is ordered, the court shall determine the
31 amount of restitution due at the sentencing hearing or within one
32 hundred eighty days except as provided in subsection (7) of this
33 section. The court may continue the hearing beyond the one hundred
34 eighty days for good cause. The court shall then set a minimum
35 monthly payment that the offender is required to make towards the
36 restitution that is ordered. The court shall not issue any order that
37 postpones the commencement of restitution payments until after the
38 offender is released from total confinement. The court should take
39 into consideration the total amount of the restitution owed, the

1 offender's present, past, and future ability to pay, as well as any
2 assets that the offender may have. An offender's inability to make
3 restitution payments while in total confinement may not be the basis
4 for a violation of his or her sentence unless his or her inability to
5 make payments resulted from a refusal to accept an employment offer
6 to a class I or class II job or a termination for cause from such a
7 job.

8 (2) During the period of supervision, the community corrections
9 officer may examine the offender to determine if there has been a
10 change in circumstances that warrants an amendment of the monthly
11 payment schedule. The community corrections officer may recommend a
12 change to the schedule of payment and shall inform the court of the
13 recommended change and the reasons for the change. The sentencing
14 court may then reset the monthly minimum payments based on the report
15 from the community corrections officer of the change in
16 circumstances.

17 (3) Except as provided in subsection (6) of this section,
18 restitution ordered by a court pursuant to a criminal conviction
19 shall be based on easily ascertainable damages for injury to or loss
20 of property, actual expenses incurred for treatment for injury to
21 persons, and lost wages resulting from injury. Restitution shall not
22 include reimbursement for damages for mental anguish, pain and
23 suffering, or other intangible losses, but may include the costs of
24 counseling reasonably related to the offense. The amount of
25 restitution shall not exceed double the amount of the offender's gain
26 or the victim's loss from the commission of the crime.

27 (4) For the purposes of this section, for an offense committed
28 prior to July 1, 2000, the offender shall remain under the court's
29 jurisdiction for a term of ten years following the offender's release
30 from total confinement or ten years subsequent to the entry of the
31 judgment and sentence, whichever period ends later. Prior to the
32 expiration of the initial ten-year period, the superior court may
33 extend jurisdiction under the criminal judgment an additional ten
34 years for payment of restitution. For an offense committed on or
35 after July 1, 2000, the offender shall remain under the court's
36 jurisdiction until the obligation is completely satisfied, regardless
37 of the statutory maximum for the crime. The portion of the sentence
38 concerning restitution may be modified as to amount, terms, and
39 conditions during any period of time the offender remains under the
40 court's jurisdiction, regardless of the expiration of the offender's

1 term of community supervision and regardless of the statutory maximum
2 sentence for the crime. The court may not reduce the total amount of
3 restitution ordered because the offender may lack the ability to pay
4 the total amount. The offender's compliance with the restitution
5 shall be supervised by the department only during any period which
6 the department is authorized to supervise the offender in the
7 community under RCW 9.94A.728, 9.94A.501, or in which the offender is
8 in confinement in a state correctional institution or a correctional
9 facility pursuant to a transfer agreement with the department, and
10 the department shall supervise the offender's compliance during any
11 such period. The department is responsible for supervision of the
12 offender only during confinement and authorized supervision and not
13 during any subsequent period in which the offender remains under the
14 court's jurisdiction. The county clerk is authorized to collect
15 unpaid restitution at any time the offender remains under the
16 jurisdiction of the court for purposes of his or her legal financial
17 obligations.

18 (5) Restitution shall be ordered whenever the offender is
19 convicted of an offense which results in injury to any person or
20 damage to or loss of property or as provided in subsection (6) of
21 this section unless extraordinary circumstances exist which make
22 restitution inappropriate in the court's judgment and the court sets
23 forth such circumstances in the record. In addition, restitution
24 shall be ordered to pay for an injury, loss, or damage if the
25 offender pleads guilty to a lesser offense or fewer offenses and
26 agrees with the prosecutor's recommendation that the offender be
27 required to pay restitution to a victim of an offense or offenses
28 which are not prosecuted pursuant to a plea agreement.

29 (6) Restitution for the crime of rape of a child in the first,
30 second, or third degree, in which the victim becomes pregnant, shall
31 include: (a) All of the victim's medical expenses that are associated
32 with the rape and resulting pregnancy; and (b) child support for any
33 child born as a result of the rape if child support is ordered
34 pursuant to a civil superior court or administrative order for
35 support for that child. The clerk must forward any restitution
36 payments made on behalf of the victim's child to the Washington state
37 child support registry under chapter 26.23 RCW. Identifying
38 information about the victim and child shall not be included in the
39 order. The offender shall receive a credit against any obligation
40 owing under the administrative or superior court order for support of

1 the victim's child. For the purposes of this subsection, the offender
2 shall remain under the court's jurisdiction until the offender has
3 satisfied support obligations under the superior court or
4 administrative order for the period provided in RCW 4.16.020 or a
5 maximum term of twenty-five years following the offender's release
6 from total confinement or twenty-five years subsequent to the entry
7 of the judgment and sentence, whichever period is longer. The court
8 may not reduce the total amount of restitution ordered because the
9 offender may lack the ability to pay the total amount. The department
10 shall supervise the offender's compliance with the restitution
11 ordered under this subsection.

12 (7) Regardless of the provisions of subsections (1) through (6)
13 of this section, the court shall order restitution in all cases where
14 the victim is entitled to benefits under the crime victims'
15 compensation act, chapter 7.68 RCW. If the court does not order
16 restitution and the victim of the crime has been determined to be
17 entitled to benefits under the crime victims' compensation act, the
18 department of labor and industries, as administrator of the crime
19 victims' compensation program, may petition the court within one year
20 of entry of the judgment and sentence for entry of a restitution
21 order. Upon receipt of a petition from the department of labor and
22 industries, the court shall hold a restitution hearing and shall
23 enter a restitution order.

24 (8) In addition to any sentence that may be imposed, an offender
25 who has been found guilty of an offense involving fraud or other
26 deceptive practice or an organization which has been found guilty of
27 any such offense may be ordered by the sentencing court to give
28 notice of the conviction to the class of persons or to the sector of
29 the public affected by the conviction or financially interested in
30 the subject matter of the offense by mail, by advertising in
31 designated areas or through designated media, or by other appropriate
32 means.

33 (9) This section does not limit civil remedies or defenses
34 available to the victim, survivors of the victim, or offender
35 including support enforcement remedies for support ordered under
36 subsection (6) of this section for a child born as a result of a rape
37 of a child victim. The court shall identify in the judgment and
38 sentence the victim or victims entitled to restitution and what
39 amount is due each victim. The state or victim may enforce the court-
40 ordered restitution in the same manner as a judgment in a civil

1 action. Restitution collected through civil enforcement must be paid
2 through the registry of the court and must be distributed
3 proportionately according to each victim's loss when there is more
4 than one victim.

5 (10) If a person has caused a victim to lose money or property
6 through the filing of a vehicle report of sale in which the
7 designated buyer had no knowledge of the vehicle transfer or the
8 fraudulent filing of the report of sale, upon conviction or when the
9 offender pleads guilty and agrees with the prosecutor's
10 recommendation that the offender be required to pay restitution to a
11 victim, the court may order the defendant to pay an amount, fixed by
12 the court, not to exceed double the amount of the defendant's gain or
13 victim's loss from the filing of the vehicle report of sale in which
14 the designated buyer had no knowledge of the vehicle transfer or the
15 fraudulent filing of the report of sale. Such an amount may be used
16 to provide restitution to the victim at the order of the court. It is
17 the duty of the prosecuting attorney to investigate the alternative
18 of restitution, and to recommend it to the court, when the
19 prosecuting attorney believes that restitution is appropriate and
20 feasible. If the court orders restitution, the court must make a
21 finding as to the amount of the victim's loss due to the filing of
22 the report of sale in which the designated buyer had no knowledge of
23 the vehicle transfer or the fraudulent filing of the report of sale,
24 and if the record does not contain sufficient evidence to support
25 such finding, the court may conduct a hearing upon the issue. For
26 purposes of this section, "loss" refers to the amount of money or the
27 value of property or services lost.

28 (11) At any time, the court may determine that the offender is
29 not required to pay, or may relieve the offender of the requirement
30 to pay, full or partial restitution to any insurance provider
31 authorized under Title 48 RCW if the offender reasonably satisfies
32 the court that he or she does not have the means to make full or
33 partial restitution to the insurance provider.

34 NEW SECTION. **Sec. 3.** This act applies retroactively to all
35 causes of action commenced either prior to or after the effective
36 date of this section, regardless of when the cause of action arose.

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