
SENATE BILL 6259

State of Washington

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By Senators Shin, Kline, Pflug, Regala, Eide, Kohl-Welles, Litzow, Chase, Stevens, Fraser, Nelson, Roach, and Conway

Read first time 01/16/12. Referred to Committee on Judiciary.

1 AN ACT Relating to restitution for human trafficking and
2 prostitution; and amending RCW 9.94A.753.

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

4 **Sec. 1.** RCW 9.94A.753 and 2003 c 379 s 16 are each amended to read
5 as follows:

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

7 (1) When restitution is ordered, the court shall determine the
8 amount of restitution due at the sentencing hearing or within one
9 hundred eighty days except as provided in subsection (7) of this
10 section. The court may continue the hearing beyond the one hundred
11 eighty days for good cause. The court shall then set a minimum monthly
12 payment that the offender is required to make towards the restitution
13 that is ordered. The court should take into consideration the total
14 amount of the restitution owed, the offender's present, past, and
15 future ability to pay, as well as any assets that the offender may
16 have.

17 (2) During the period of supervision, the community corrections
18 officer may examine the offender to determine if there has been a
19 change in circumstances that warrants an amendment of the monthly

1 payment schedule. The community corrections officer may recommend a
2 change to the schedule of payment and shall inform the court of the
3 recommended change and the reasons for the change. The sentencing
4 court may then reset the monthly minimum payments based on the report
5 from the community corrections officer of the change in circumstances.

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

16 (4) For the purposes of this section, for an offense committed
17 prior to July 1, 2000, the offender shall remain under the court's
18 jurisdiction for a term of ten years following the offender's release
19 from total confinement or ten years subsequent to the entry of the
20 judgment and sentence, whichever period ends later. Prior to the
21 expiration of the initial ten-year period, the superior court may
22 extend jurisdiction under the criminal judgment an additional ten years
23 for payment of restitution. For an offense committed on or after July
24 1, 2000, the offender shall remain under the court's jurisdiction until
25 the obligation is completely satisfied, regardless of the statutory
26 maximum for the crime. The portion of the sentence concerning
27 restitution may be modified as to amount, terms, and conditions during
28 any period of time the offender remains under the court's jurisdiction,
29 regardless of the expiration of the offender's term of community
30 supervision and regardless of the statutory maximum sentence for the
31 crime. The court may not reduce the total amount of restitution
32 ordered because the offender may lack the ability to pay the total
33 amount. The offender's compliance with the restitution shall be
34 supervised by the department only during any period which the
35 department is authorized to supervise the offender in the community
36 under RCW 9.94A.728, 9.94A.501, or in which the offender is in
37 confinement in a state correctional institution or a correctional
38 facility pursuant to a transfer agreement with the department, and the

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

8 (5) Restitution shall be ordered whenever the offender is convicted
9 of an offense which results in injury to any person or damage to or
10 loss of property or as provided in subsection (6) of this section
11 unless extraordinary circumstances exist which make restitution
12 inappropriate in the court's judgment and the court sets forth such
13 circumstances in the record. Restitution shall be mandatory for the
14 crimes of human trafficking (RCW 9A.40.100), promoting prostitution in
15 the first degree (RCW 9A.88.070), and promoting commercial sexual abuse
16 of minors (RCW 9.68A.100) regardless of extraordinary circumstances.
17 In addition, restitution shall be ordered to pay for an injury, loss,
18 or damage if the offender pleads guilty to a lesser offense or fewer
19 offenses and agrees with the prosecutor's recommendation that the
20 offender be required to pay restitution to a victim of an offense or
21 offenses which are not prosecuted pursuant to a plea agreement.

22 (6) Restitution for the crime of rape of a child in the first,
23 second, or third degree, in which the victim becomes pregnant, shall
24 include: (a) All of the victim's medical expenses that are associated
25 with the rape and resulting pregnancy; and (b) child support for any
26 child born as a result of the rape if child support is ordered pursuant
27 to a civil superior court or administrative order for support for that
28 child. The clerk must forward any restitution payments made on behalf
29 of the victim's child to the Washington state child support registry
30 under chapter 26.23 RCW. Identifying information about the victim and
31 child shall not be included in the order. The offender shall receive
32 a credit against any obligation owing under the administrative or
33 superior court order for support of the victim's child. For the
34 purposes of this subsection, the offender shall remain under the
35 court's jurisdiction until the offender has satisfied support
36 obligations under the superior court or administrative order for the
37 period provided in RCW 4.16.020 or a maximum term of twenty-five years
38 following the offender's release from total confinement or twenty-five

1 years subsequent to the entry of the judgment and sentence, whichever
2 period is longer. 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 department shall supervise the offender's
5 compliance with the restitution ordered under this subsection.

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

17 (8) In addition to any sentence that may be imposed, an offender
18 who has been found guilty of an offense involving fraud or other
19 deceptive practice or an organization which has been found guilty of
20 any such offense may be ordered by the sentencing court to give notice
21 of the conviction to the class of persons or to the sector of the
22 public affected by the conviction or financially interested in the
23 subject matter of the offense by mail, by advertising in designated
24 areas or through designated media, or by other appropriate means.

25 (9) This section does not limit civil remedies or defenses
26 available to the victim, survivors of the victim, or offender including
27 support enforcement remedies for support ordered under subsection (6)
28 of this section for a child born as a result of a rape of a child
29 victim. The court shall identify in the judgment and sentence the
30 victim or victims entitled to restitution and what amount is due each
31 victim. The state or victim may enforce the court-ordered restitution
32 in the same manner as a judgment in a civil action. Restitution
33 collected through civil enforcement must be paid through the registry
34 of the court and must be distributed proportionately according to each
35 victim's loss when there is more than one victim.

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