
SUBSTITUTE HOUSE BILL 2497

State of Washington

63rd Legislature

2014 Regular Session

By House Judiciary (originally sponsored by Representatives S. Hunt, Zeiger, Goodman, Wylie, Rodne, Ross, Pike, Moeller, Roberts, Tharinger, and Haigh)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to establishing new authority for courts to assess
2 cost recovery fees for costs associated with new indigent defense
3 standards; amending RCW 3.62.085 and 10.01.160; reenacting and amending
4 RCW 10.64.120; adding a new section to chapter 3.62 RCW; adding a new
5 section to chapter 10.01 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the state supreme
8 court has adopted new standards and caseload limits for public
9 defenders, which were originally scheduled to take effect in September
10 2013, but will not become effective until January 2015.

11 The legislature finds that while these standards of four hundred
12 misdemeanor cases per public defender per year, or weighted-system
13 standards of three hundred misdemeanor cases per public defender per
14 year, are intended to raise the quality of counsel provided to low-
15 income and indigent populations, they also will have a very real fiscal
16 impact on the criminal justice and court operations of cities and
17 counties which already are struggling to address these costs.

18 The legislature therefore intends to provide local courts and

1 courts of limited jurisdiction with additional fee authority to assess
2 costs on offenders that can be used to offset growing expenditures
3 associated with indigent defense and public defender caseload limits.

4 **Sec. 2.** RCW 3.62.085 and 2005 c 457 s 10 are each amended to read
5 as follows:

6 Upon conviction or a plea of guilty in any court organized under
7 this title or Title 35 RCW, a defendant in a criminal case is liable
8 for a fee of (~~forty-three~~) fifty-five dollars. This fee shall be
9 subject to division with the state under RCW (~~(3.46.120(2),)~~)
10 3.50.100(2), 3.62.020(2), 3.62.040(2), and 35.20.220(2).

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 3.62 RCW
12 to read as follows:

13 Funds deposited into the city or county general fund attributable
14 to the increase in fees imposed by section 2, chapter . . ., Laws of
15 2014 (this act) must be used to support local court operations and
16 criminal justice functions that have a clear connection to indigent
17 defense cases.

18 **Sec. 4.** RCW 10.01.160 and 2010 c 54 s 1 are each amended to read
19 as follows:

20 (1) The court may require a defendant to pay costs. Costs may be
21 imposed only upon a convicted defendant, except for costs imposed upon
22 a defendant's entry into a deferred prosecution program, costs imposed
23 upon a defendant for pretrial supervision, or costs imposed upon a
24 defendant for preparing and serving a warrant for failure to appear.

25 (2) Costs shall be limited to expenses specially incurred by the
26 state in prosecuting the defendant or in administering the deferred
27 prosecution program under chapter 10.05 RCW or pretrial supervision.
28 They cannot include expenses inherent in providing a constitutionally
29 guaranteed jury trial or expenditures in connection with the
30 maintenance and operation of government agencies that must be made by
31 the public irrespective of specific violations of law. Expenses
32 incurred for serving of warrants for failure to appear and jury fees
33 under RCW 10.46.190 may be included in costs the court may require a
34 defendant to pay. Costs for administering a deferred prosecution may
35 not exceed two hundred fifty dollars. Costs for administering a

1 pretrial supervision may not exceed one hundred fifty dollars. Costs
2 for preparing and serving a warrant for failure to appear may not
3 exceed one hundred seventy-five dollars. Costs of incarceration
4 imposed on a defendant convicted of a misdemeanor or a gross
5 misdemeanor may not exceed the actual cost of incarceration. In no
6 case may the court require the offender to pay more than one hundred
7 dollars per day for the cost of incarceration. Payment of other court-
8 ordered financial obligations, including all legal financial
9 obligations and costs of supervision take precedence over the payment
10 of the cost of incarceration ordered by the court. All funds received
11 from defendants for the cost of incarceration in the county or city
12 jail must be remitted for criminal justice purposes to the county or
13 city that is responsible for the defendant's jail costs. Costs imposed
14 constitute a judgment against a defendant and survive a dismissal of
15 the underlying action against the defendant. However, if the defendant
16 is acquitted on the underlying action, the costs for preparing and
17 serving a warrant for failure to appear do not survive the acquittal,
18 and the judgment that such costs would otherwise constitute shall be
19 vacated.

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

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

33 (5) Except for direct costs relating to evaluating and reporting to
34 the court, prosecutor, or defense counsel regarding a defendant's
35 competency to stand trial as provided in RCW 10.77.060, this section
36 shall not apply to costs related to medical or mental health treatment
37 or services a defendant receives while in custody of the secretary of
38 the department of social and health services or other governmental

1 units. This section shall not prevent the secretary of the department
2 of social and health services or other governmental units from imposing
3 liability and seeking reimbursement from a defendant committed to an
4 appropriate facility as provided in RCW 10.77.084 while criminal
5 proceedings are stayed. This section shall also not prevent
6 governmental units from imposing liability on defendants for costs
7 related to providing medical or mental health treatment while the
8 defendant is in the governmental unit's custody. Medical or mental
9 health treatment and services a defendant receives at a state hospital
10 or other facility are not a cost of prosecution and shall be
11 recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B RCW, and
12 any other applicable statute.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.01 RCW
14 to read as follows:

15 Funds collected as a result of the increase in the amount of costs
16 that may be imposed by section 4, chapter . . ., Laws of 2014 (this
17 act) must be used to support local court operations and criminal
18 justice functions that have a clear connection to indigent defense
19 cases.

20 **Sec. 6.** RCW 10.64.120 and 2005 c 400 s 7 and 2005 c 282 s 22 are
21 each reenacted and amended to read as follows:

22 (1) Every judge of a court of limited jurisdiction shall have the
23 authority to levy upon a person a monthly assessment not to exceed one
24 hundred fifty dollars for services provided whenever the person is
25 referred by the court to the misdemeanor probation department for
26 evaluation or supervision services. The assessment may also be made by
27 a judge in superior court when such misdemeanor or gross misdemeanor
28 cases are heard in the superior court.

29 (2) For the purposes of this section the administrative office of
30 the courts shall define a probation department and adopt rules for the
31 qualifications of probation officers based on occupational and
32 educational requirements developed by an oversight committee. This
33 oversight committee shall include a representative from the district
34 and municipal court judges' association, the misdemeanor corrections
35 association, the administrative office of the courts, and associations
36 of cities and counties. The oversight committee shall consider

1 qualifications that provide the training and education necessary to (a)
2 conduct presentencing and postsentencing background investigations,
3 including sentencing recommendations to the court regarding jail terms,
4 alternatives to incarceration, and conditions of release; and (b)
5 provide ongoing supervision and assessment of offenders' needs and the
6 risk they pose to the community.

7 (3) It shall be the responsibility of the probation services office
8 to implement local procedures approved by the court of limited
9 jurisdiction to ensure collection and payment of such fees into the
10 general fund of the city or county treasury.

11 (4)(a) Except as provided in (b) of this subsection, revenues
12 raised under this section shall be used to fund programs for probation
13 services and shall be in addition to those funds provided in RCW
14 3.62.050.

15 (b) Revenues raised as a result of the increase in the amount of
16 the assessment that may be imposed by section 6, chapter . . . , Laws of
17 2014 (this act) must be used to support local court operations and
18 criminal justice functions that have a clear connection to indigent
19 defense cases.

20 (5) Assessments and fees levied upon a probationer under this
21 section must be suspended while the probationer is being supervised by
22 another state under RCW 9.94A.745, the interstate compact for adult
23 offender supervision.

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