
HOUSE BILL 2751

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Roberts, Goodman, Moscoso, Appleton, Cody, Jinkins, Kagi, Ryu, Walkinshaw, and Ormsby

Read first time 01/31/14. Referred to Committee on Judiciary.

1 AN ACT Relating to improving the system of legal financial
2 obligations in criminal cases to protect restitution to crime victims,
3 ensure successful reentry, and reduce recidivism; amending RCW
4 36.18.016, 9.94A.780, 10.82.090, 10.01.160, 7.68.035, 43.43.7541,
5 36.18.020, 9.94A.760, 9.94B.040, 10.01.180, and 36.23.110; and creating
6 a new section.

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

8 NEW SECTION. **Sec. 1.** This act may be known and cited as the
9 restitution first act.

10 **Sec. 2.** RCW 36.18.016 and 2009 c 417 s 2 are each amended to read
11 as follows:

12 (1) Revenue collected under this section is not subject to division
13 under RCW 36.18.025 or 27.24.070.

14 (2)(a) For the filing of a petition for modification of a decree of
15 dissolution or paternity, within the same case as the original action,
16 and any party filing a counterclaim, cross-claim, or third-party claim
17 in any such action, a fee of thirty-six dollars must be paid.

1 (b) The party filing the first or initial petition for dissolution,
2 legal separation, or declaration concerning the validity of marriage
3 shall pay, at the time and in addition to the filing fee required under
4 RCW 36.18.020, a fee of thirty dollars. The clerk of the superior
5 court shall transmit monthly twenty-four dollars of the thirty dollar
6 fee collected under this subsection to the state treasury for deposit
7 in the domestic violence prevention account. The remaining six dollars
8 shall be retained by the county for the purpose of supporting
9 community-based services within the county for victims of domestic
10 violence, except for five percent of the six dollars, which may be
11 retained by the court for administrative purposes.

12 (3)(a) The party making a demand for a jury of six in a civil
13 action shall pay, at the time, a fee of one hundred twenty-five
14 dollars; if the demand is for a jury of twelve, a fee of two hundred
15 fifty dollars. If, after the party demands a jury of six and pays the
16 required fee, any other party to the action requests a jury of twelve,
17 an additional one hundred twenty-five dollar fee will be required of
18 the party demanding the increased number of jurors.

19 (b) Upon conviction in criminal cases a jury demand charge of one
20 hundred twenty-five dollars for a jury of six, or two hundred fifty
21 dollars for a jury of twelve may be imposed as costs under RCW
22 10.46.190.

23 (4) For preparing a certified copy of an instrument on file or of
24 record in the clerk's office, for the first page or portion of the
25 first page, a fee of five dollars, and for each additional page or
26 portion of a page, a fee of one dollar must be charged. For
27 authenticating or exemplifying an instrument, a fee of two dollars for
28 each additional seal affixed must be charged. For preparing a copy of
29 an instrument on file or of record in the clerk's office without a
30 seal, a fee of fifty cents per page must be charged. When copying a
31 document without a seal or file that is in an electronic format, a fee
32 of twenty-five cents per page must be charged. For copies made on a
33 compact disc, an additional fee of twenty dollars for each compact disc
34 must be charged.

35 (5) For executing a certificate, with or without a seal, a fee of
36 two dollars must be charged.

37 (6) For a garnishee defendant named in an affidavit for garnishment
38 and for a writ of attachment, a fee of twenty dollars must be charged.

- 1 (7) For filing a supplemental proceeding, a fee of twenty dollars
2 must be charged.
- 3 (8) For approving a bond, including justification on the bond, in
4 other than civil actions and probate proceedings, a fee of two dollars
5 must be charged.
- 6 (9) For the issuance of a certificate of qualification and a
7 certified copy of letters of administration, letters testamentary, or
8 letters of guardianship, there must be a fee of five dollars.
- 9 (10) For the preparation of a passport application, the clerk may
10 collect an execution fee as authorized by the federal government.
- 11 (11) For clerk's services such as performing historical searches,
12 compiling statistical reports, and conducting exceptional record
13 searches, the clerk may collect a fee not to exceed thirty dollars per
14 hour.
- 15 (12) For processing ex parte orders, the clerk may collect a fee of
16 thirty dollars.
- 17 (13) For duplicated recordings of court's proceedings there must be
18 a fee of ten dollars for each audio tape and twenty-five dollars for
19 each video tape or other electronic storage medium.
- 20 (14) For registration of land titles, Torrens Act, under RCW
21 65.12.780, a fee of twenty dollars must be charged.
- 22 (15) For the issuance of extension of judgment under RCW 6.17.020
23 and chapter 9.94A RCW, a fee of two hundred dollars must be charged.
24 When the extension of judgment is at the request of the clerk, the two
25 hundred dollar charge may be imposed as court costs under RCW
26 10.46.190.
- 27 (16) A facilitator surcharge of up to twenty dollars must be
28 charged as authorized under RCW 26.12.240.
- 29 (17) For filing a water rights (~~(statement)~~) adjudication claim
30 under RCW 90.03.180, a fee of twenty-five dollars must be charged.
- 31 (18) For filing a claim of frivolous lien under RCW 60.04.081, a
32 fee of thirty-five dollars must be charged.
- 33 (19) For preparation of a change of venue, a fee of twenty dollars
34 must be charged by the originating court in addition to the per page
35 charges in subsection (4) of this section.
- 36 (20) A service fee of five dollars for the first page and one
37 dollar for each additional page must be charged for receiving faxed

1 documents, pursuant to Washington state rules of court, general rule
2 17.

3 (21) For preparation of clerk's papers under RAP 9.7, a fee of
4 fifty cents per page must be charged.

5 (22) For copies and reports produced at the local level as
6 permitted by RCW 2.68.020 and supreme court policy, a variable fee must
7 be charged.

8 (23) Investment service charge and earnings under RCW 36.48.090
9 must be charged.

10 (24) Costs for nonstatutory services rendered by clerk by authority
11 of local ordinance or policy must be charged.

12 (25) For filing a request for mandatory arbitration, a filing fee
13 may be assessed against the party filing a statement of arbitrability
14 not to exceed two hundred twenty dollars as established by authority of
15 local ordinance. This charge shall be used solely to offset the cost
16 of the mandatory arbitration program.

17 (26) For filing a request for trial de novo of an arbitration
18 award, a fee not to exceed two hundred fifty dollars as established by
19 authority of local ordinance must be charged.

20 (27) A public agency may not charge a fee to a law enforcement
21 agency, for preparation, copying, or mailing of certified copies of the
22 judgment and sentence, information, affidavit of probable cause, and/or
23 the notice of requirement to register, of a sex offender convicted in
24 a Washington court, when such records are necessary for risk
25 assessment, preparation of a case for failure to register, or
26 maintenance of a sex offender's registration file.

27 (28) For the filing of a will or codicil under the provisions of
28 chapter 11.12 RCW, a fee of twenty dollars must be charged.

29 (29) For the collection of unpaid legal financial obligations, the
30 clerk may impose an annual fee of up to one hundred dollars, pursuant
31 to RCW 9.94A.780: PROVIDED, HOWEVER, that the one hundred dollar fee,
32 if imposed, is a monetary obligation subject to the priority of
33 distribution set forth in RCW 9.94A.760(1).

34 (30) A surcharge of up to twenty dollars may be charged in
35 dissolution and legal separation actions as authorized by RCW
36 26.12.260.

37 The revenue to counties from the fees established in this section
38 shall be deemed to be complete reimbursement from the state for the

1 state's share of benefits paid to the superior court judges of the
2 state prior to July 24, 2005, and no claim shall lie against the state
3 for such benefits.

4 **Sec. 3.** RCW 9.94A.780 and 2011 1st sp.s. c 40 s 10 are each
5 amended to read as follows:

6 (1) Whenever a punishment imposed under this chapter requires
7 supervision services to be provided, the offender shall pay to the
8 department of corrections the supervision intake fee, prescribed under
9 subsection (2) of this section, which shall be considered as payment or
10 part payment of the cost of establishing supervision to the offender.
11 The department may exempt or defer a person from the payment of all or
12 any part of the intake fee based upon any of the following factors:

13 (a) The offender has diligently attempted but has been unable to
14 obtain employment that provides the offender sufficient income to make
15 such a payment.

16 (b) The offender is a student in a school, college, university, or
17 a course of vocational or technical training designed to fit the
18 student for gainful employment.

19 (c) The offender has an employment handicap, as determined by an
20 examination acceptable to or ordered by the department.

21 (d) The offender's age prevents him or her from obtaining
22 employment.

23 (e) The offender is responsible for the support of dependents and
24 the payment of the intake fee constitutes an undue hardship on the
25 offender.

26 (f) Other extenuating circumstances as determined by the
27 department.

28 (2) The department of corrections shall adopt a rule prescribing
29 the amount of the assessment. The supervision intake fee shall be
30 imposed after the determination of eligibility for supervision has been
31 completed. For offenders whose crime was committed on or after October
32 1, 2011, the intake fee prescribed shall be not less than four hundred
33 dollars or more than six hundred dollars, and shall be assessed for
34 each judgment and sentence imposed by the superior court in which
35 supervision by the department is required.

36 (3) For offenders whose offense date was before October 1, 2011,
37 the monthly rate shall be converted to a one-time fee. The amount due

1 shall be based upon the most recent monthly fee amount by the months of
2 supervision left to serve, but in no case shall exceed six hundred
3 dollars.

4 (4) Nothing in chapter 40, Laws of 2011 1st sp. sess. shall affect
5 the amount or dates payments are due for any prior balances owed by an
6 offender for the cost of supervision.

7 (5) All amounts required to be paid under this section shall be
8 collected by the department of corrections and deposited by the
9 department in the dedicated fund established pursuant to RCW 72.11.040.

10 (6) This section shall not apply to probation services provided
11 under an interstate compact pursuant to chapter 9.95 RCW or to
12 probation services provided for persons placed on probation prior to
13 June 10, 1982.

14 (7) If a county clerk assumes responsibility for collection of
15 unpaid legal financial obligations under RCW 9.94A.760, or under any
16 agreement with the department under that section, whether before or
17 after the completion of any period of community custody, the clerk may
18 impose a monthly or annual assessment for the cost of collections:
19 PROVIDED, HOWEVER, that the monthly or annual assessment for the cost
20 of collections, if imposed, is a monetary obligation subject to the
21 priority of distribution set forth in RCW 9.94A.760(1). The amount of
22 the assessment shall not exceed the actual cost of collections. The
23 county clerk may exempt or defer payment of all or part of the
24 assessment based upon any of the factors listed in subsection (1) of
25 this section. The offender shall pay the assessment under this
26 subsection to the county clerk who shall apply it to the cost of
27 collecting legal financial obligations under RCW 9.94A.760.

28 **Sec. 4.** RCW 10.82.090 and 2011 c 106 s 2 are each amended to read
29 as follows:

30 (1) Except as provided in subsection (2) of this section, financial
31 obligations imposed in a judgment shall bear interest from the date of
32 the judgment until payment, at the rate applicable to civil judgments
33 for the restitution portion of the judgment only; all other legal
34 financial obligations aside from restitution shall bear no interest.
35 All nonrestitution interest retained by the court shall be split
36 twenty-five percent to the state treasurer for deposit in the state
37 general fund, twenty-five percent to the state treasurer for deposit in

1 the judicial information system account as provided in RCW 2.68.020,
2 twenty-five percent to the county current expense fund, and twenty-five
3 percent to the county current expense fund to fund local courts.

4 (2) The court (~~(may, on motion by the offender)~~) shall, following
5 the offender's release from total confinement, (~~(reduce or)~~) waive the
6 interest on legal financial obligations levied as a result of a
7 criminal conviction as follows:

8 (a) The court shall waive all interest on the portions of the legal
9 financial obligations that are not restitution that accrued during the
10 term of total confinement for the conviction giving rise to the
11 financial obligations, (~~(provided the offender shows that the interest
12 creates a hardship for the offender or his or her immediate family)~~),
13 and for the ninety-day period following the term of total confinement;

14 (b) The court may reduce interest on the restitution portion of the
15 legal financial obligations only if the principal has been paid in
16 full;

17 (c) The court may otherwise reduce or waive the interest on the
18 portions of the legal financial obligations that are not restitution if
19 the offender shows that he or she has personally made a good faith
20 effort to pay and that the interest accrual is causing a significant
21 hardship. For purposes of this section, "good faith effort" means that
22 the offender has either (i) paid the principal amount in full; or (ii)
23 made at least fifteen monthly payments within an eighteen-month period,
24 excluding any payments mandatorily deducted by the department of
25 corrections;

26 (d) For purposes of (~~(a) through~~) (b) and (c) of this subsection,
27 the court may reduce or waive interest on legal financial obligations
28 only as an incentive for the offender to meet his or her legal
29 financial obligations. The court may grant the motion, establish a
30 payment schedule, and retain jurisdiction over the offender for
31 purposes of reviewing and revising the reduction or waiver of interest.

32 (3) This section applies to persons convicted as adults or
33 adjudicated in juvenile court.

34 **Sec. 5.** RCW 10.01.160 and 2010 c 54 s 1 are each amended to read
35 as follows:

36 (1) The court may require a defendant to pay costs, but none of the
37 costs discussed in this section may be imposed if the defendant is

1 indigent, as defined in RCW 10.101.010, or the payment of costs would
2 pose an undue hardship to the defendant or his or her family. In
3 determining the amount and method of payment of costs, the court shall
4 take account of the financial resources of the defendant and the nature
5 of the burden that payment of costs will impose. Costs may be imposed
6 only upon a convicted defendant, except for costs imposed upon a
7 defendant's entry into a deferred prosecution program, costs imposed
8 upon a defendant for pretrial supervision, or costs imposed upon a
9 defendant for preparing and serving a warrant for failure to appear.

10 (2) Costs shall be limited to expenses specially incurred by the
11 state in prosecuting the defendant or in administering the deferred
12 prosecution program under chapter 10.05 RCW or pretrial supervision.
13 They cannot include expenses inherent in providing a constitutionally
14 guaranteed jury trial or expenditures in connection with the
15 maintenance and operation of government agencies that must be made by
16 the public irrespective of specific violations of law. Expenses
17 incurred for serving of warrants for failure to appear and jury fees
18 under RCW 10.46.190 may be included in costs the court may require a
19 defendant to pay. Costs for administering a deferred prosecution may
20 not exceed two hundred fifty dollars. Costs for administering a
21 pretrial supervision may not exceed one hundred fifty dollars. Costs
22 for preparing and serving a warrant for failure to appear may not
23 exceed one hundred dollars. Costs of incarceration imposed on a
24 defendant convicted of a misdemeanor or a gross misdemeanor may not
25 exceed the actual cost of incarceration. In no case may the court
26 require the offender to pay more than one hundred dollars per day for
27 the cost of incarceration. Payment of other court-ordered financial
28 obligations, including all legal financial obligations and costs of
29 supervision take precedence over the payment of the cost of
30 incarceration ordered by the court. All funds received from defendants
31 for the cost of incarceration in the county or city jail must be
32 remitted for criminal justice purposes to the county or city that is
33 responsible for the defendant's jail costs. Costs imposed constitute
34 a judgment against a defendant and survive a dismissal of the
35 underlying action against the defendant. However, if the defendant is
36 acquitted on the underlying action, the costs for preparing and serving
37 a warrant for failure to appear do not survive the acquittal, and the
38 judgment that such costs would otherwise constitute shall be vacated.

1 ~~(3) ((The court shall not order a defendant to pay costs unless the~~
2 ~~defendant is or will be able to pay them. In determining the amount~~
3 ~~and method of payment of costs, the court shall take account of the~~
4 ~~financial resources of the defendant and the nature of the burden that~~
5 ~~payment of costs will impose.~~

6 ~~(4))~~) A defendant who has been ordered to pay costs ~~((and who is~~
7 ~~not in contumacious default in the payment thereof))~~ may at any time
8 petition the sentencing court for remission of the payment of costs or
9 of any unpaid portion thereof. A formal written petition is not
10 necessary; the court may act pursuant to this section upon request of
11 the defendant or on the court's own initiative. If it appears to the
12 satisfaction of the court that payment of the amount due will impose
13 manifest hardship on the defendant or the defendant's immediate family,
14 either because the defendant is indigent or for other reasons, the
15 court may remit all or part of the amount due in costs, or modify the
16 method of payment under RCW 10.01.170.

17 ~~((+5))~~) (4) Except for direct costs relating to evaluating and
18 reporting to the court, prosecutor, or defense counsel regarding a
19 defendant's competency to stand trial as provided in RCW 10.77.060,
20 this section shall not apply to costs related to medical or mental
21 health treatment or services a defendant receives while in custody of
22 the secretary of the department of social and health services or other
23 governmental units. This section shall not prevent the secretary of
24 the department of social and health services or other governmental
25 units from imposing liability and seeking reimbursement from a
26 defendant committed to an appropriate facility as provided in RCW
27 10.77.084 while criminal proceedings are stayed. This section shall
28 also not prevent governmental units from imposing liability on
29 defendants for costs related to providing medical or mental health
30 treatment while the defendant is in the governmental unit's custody.
31 Medical or mental health treatment and services a defendant receives at
32 a state hospital or other facility are not a cost of prosecution and
33 shall be recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B
34 RCW, and any other applicable statute.

35 **Sec. 6.** RCW 7.68.035 and 2011 c 336 s 246 are each amended to read
36 as follows:

37 (1)(a) When any person is found guilty in any superior court of

1 having committed a crime, except as provided in subsection (2) of this
2 section, there shall be imposed by the court upon such convicted person
3 a penalty assessment. The assessment shall be in addition to any other
4 penalty or fine imposed by law and shall be five hundred dollars for
5 each case or cause of action that includes one or more convictions of
6 a felony or gross misdemeanor and two hundred fifty dollars for any
7 case or cause of action that includes convictions of only one or more
8 misdemeanors. The court may waive the assessment, if the court finds
9 that the defendant is indigent, as defined in RCW 10.101.010, or the
10 payment of the assessment would pose an undue hardship to the defendant
11 or his or her family.

12 (b) When any juvenile is adjudicated of any offense in any juvenile
13 offense disposition under Title 13 RCW, except as provided in
14 subsection (2) of this section, there shall be imposed upon the
15 juvenile offender a penalty assessment. The assessment shall be in
16 addition to any other penalty or fine imposed by law and shall be one
17 hundred dollars for each case or cause of action that includes one or
18 more adjudications for a felony or gross misdemeanor and seventy-five
19 dollars for each case or cause of action that includes adjudications of
20 only one or more misdemeanors. The court may waive the assessment, if
21 the court finds that the defendant is indigent, as defined in RCW
22 10.101.010, or the payment of the assessment would pose an undue
23 hardship to the defendant or his or her family.

24 (2) The assessment imposed by subsection (1) of this section shall
25 not apply to motor vehicle crimes defined in Title 46 RCW except those
26 defined in the following sections: RCW 46.61.520, 46.61.522,
27 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101,
28 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249, 46.61.525,
29 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180,
30 46.10.490(2), and 46.09.470(2).

31 (3) When any person accused of having committed a crime posts bail
32 in superior court pursuant to the provisions of chapter 10.19 RCW and
33 such bail is forfeited, there shall be deducted from the proceeds of
34 such forfeited bail a penalty assessment, in addition to any other
35 penalty or fine imposed by law, equal to the assessment which would be
36 applicable under subsection (1) of this section if the person had been
37 convicted of the crime. The court may waive the assessment, if the

1 court finds that the defendant is indigent, as defined in RCW
2 10.101.010, or the payment of the assessment would pose an undue
3 hardship to the defendant or his or her family.

4 (4) Such penalty assessments shall be paid by the clerk of the
5 superior court to the county treasurer who shall monthly transmit the
6 money as provided in RCW 10.82.070. Each county shall deposit fifty
7 percent of the money it receives per case or cause of action under
8 subsection (1) of this section and retains under RCW 10.82.070, not
9 less than one and seventy-five one-hundredths percent of the remaining
10 money it retains under RCW 10.82.070 and the money it retains under
11 chapter 3.62 RCW, and all money it receives under subsection (7) of
12 this section into a fund maintained exclusively for the support of
13 comprehensive programs to encourage and facilitate testimony by the
14 victims of crimes and witnesses to crimes. A program shall be
15 considered "comprehensive" only after approval of the department upon
16 application by the county prosecuting attorney. The department shall
17 approve as comprehensive only programs which:

18 (a) Provide comprehensive services to victims and witnesses of all
19 types of crime with particular emphasis on serious crimes against
20 persons and property. It is the intent of the legislature to make
21 funds available only to programs which do not restrict services to
22 victims or witnesses of a particular type or types of crime and that
23 such funds supplement, not supplant, existing local funding levels;

24 (b) Are administered by the county prosecuting attorney either
25 directly through the prosecuting attorney's office or by contract
26 between the county and agencies providing services to victims of crime;

27 (c) Make a reasonable effort to inform the known victim or his or
28 her surviving dependents of the existence of this chapter and the
29 procedure for making application for benefits;

30 (d) Assist victims in the restitution and adjudication process; and

31 (e) Assist victims of violent crimes in the preparation and
32 presentation of their claims to the department of labor and industries
33 under this chapter.

34 Before a program in any county west of the Cascade mountains is
35 submitted to the department for approval, it shall be submitted for
36 review and comment to each city within the county with a population of
37 more than one hundred fifty thousand. The department will consider if

1 the county's proposed comprehensive plan meets the needs of crime
2 victims in cases adjudicated in municipal, district or superior courts
3 and of crime victims located within the city and county.

4 (5) Upon submission to the department of a letter of intent to
5 adopt a comprehensive program, the prosecuting attorney shall retain
6 the money deposited by the county under subsection (4) of this section
7 until such time as the county prosecuting attorney has obtained
8 approval of a program from the department. Approval of the
9 comprehensive plan by the department must be obtained within one year
10 of the date of the letter of intent to adopt a comprehensive program.
11 The county prosecuting attorney shall not make any expenditures from
12 the money deposited under subsection (4) of this section until approval
13 of a comprehensive plan by the department. If a county prosecuting
14 attorney has failed to obtain approval of a program from the department
15 under subsection (4) of this section or failed to obtain approval of a
16 comprehensive program within one year after submission of a letter of
17 intent under this section, the county treasurer shall monthly transmit
18 one hundred percent of the money deposited by the county under
19 subsection (4) of this section to the state treasurer for deposit in
20 the state general fund.

21 (6) County prosecuting attorneys are responsible to make every
22 reasonable effort to insure that the penalty assessments of this
23 chapter are imposed and collected.

24 (7) Every city and town shall transmit monthly one and seventy-five
25 one-hundredths percent of all money, other than money received for
26 parking infractions, retained under RCW 3.50.100 and 35.20.220 to the
27 county treasurer for deposit as provided in subsection (4) of this
28 section.

29 **Sec. 7.** RCW 43.43.7541 and 2011 c 125 s 1 are each amended to read
30 as follows:

31 Every sentence imposed for a crime specified in RCW 43.43.754 must
32 include a fee of one hundred dollars, except that the court may waive
33 the fee if the offender is indigent, as defined in RCW 10.101.010, the
34 payment of the fee would pose an undue hardship to the defendant or his
35 or her family, or the state has already collected the offender's DNA.

36 The fee is a court-ordered legal financial obligation as defined in RCW
37 9.94A.030 and other applicable law. For a sentence imposed under

1 chapter 9.94A RCW, the fee is payable by the offender after payment of
2 all other legal financial obligations included in the sentence has been
3 completed. For all other sentences, the fee is payable by the offender
4 in the same manner as other assessments imposed. The clerk of the
5 court shall transmit eighty percent of the fee collected to the state
6 treasurer for deposit in the state DNA database account created under
7 RCW 43.43.7532, and shall transmit twenty percent of the fee collected
8 to the agency responsible for collection of a biological sample from
9 the offender as required under RCW 43.43.754.

10 **Sec. 8.** RCW 36.18.020 and 2013 2nd sp.s. c 7 s 3 are each amended
11 to read as follows:

12 (1) Revenue collected under this section is subject to division
13 with the state under RCW 36.18.025 and with the county or regional law
14 library fund under RCW 27.24.070, except as provided in subsection (5)
15 of this section.

16 (2) Clerks of superior courts shall collect the following fees for
17 their official services:

18 (a) In addition to any other fee required by law, the party filing
19 the first or initial document in any civil action, including, but not
20 limited to an action for restitution, adoption, or change of name, and
21 any party filing a counterclaim, cross-claim, or third-party claim in
22 any such civil action, shall pay, at the time the document is filed, a
23 fee of two hundred dollars except, in an unlawful detainer action under
24 chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case
25 initiating filing fee of forty-five dollars, or in proceedings filed
26 under RCW 28A.225.030 alleging a violation of the compulsory attendance
27 laws where the petitioner shall not pay a filing fee. The forty-five
28 dollar filing fee under this subsection for an unlawful detainer action
29 shall not include an order to show cause or any other order or judgment
30 except a default order or default judgment in an unlawful detainer
31 action.

32 (b) Any party, except a defendant in a criminal case, filing the
33 first or initial document on an appeal from a court of limited
34 jurisdiction or any party on any civil appeal, shall pay, when the
35 document is filed, a fee of two hundred dollars.

36 (c) For filing of a petition for judicial review as required under
37 RCW 34.05.514 a filing fee of two hundred dollars.

1 (d) For filing of a petition for unlawful harassment under RCW
2 10.14.040 a filing fee of fifty-three dollars.

3 (e) For filing the notice of debt due for the compensation of a
4 crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

5 (f) In probate proceedings, the party instituting such proceedings,
6 shall pay at the time of filing the first document therein, a fee of
7 two hundred dollars.

8 (g) For filing any petition to contest a will admitted to probate
9 or a petition to admit a will which has been rejected, or a petition
10 objecting to a written agreement or memorandum as provided in RCW
11 11.96A.220, there shall be paid a fee of two hundred dollars.

12 (h) Upon conviction or plea of guilty, upon failure to prosecute an
13 appeal from a court of limited jurisdiction as provided by law, or upon
14 affirmance of a conviction by a court of limited jurisdiction, a
15 defendant in a criminal case shall be liable for a fee of two hundred
16 dollars, except the court may waive the fee if the court finds that the
17 defendant is indigent as defined in RCW 10.101.010 or the payment of
18 the fee would pose an undue hardship to the defendant or his or her
19 family.

20 (i) With the exception of demands for jury hereafter made and
21 garnishments hereafter issued, civil actions and probate proceedings
22 filed prior to midnight, July 1, 1972, shall be completed and governed
23 by the fee schedule in effect as of January 1, 1972. However, no fee
24 shall be assessed if an order of dismissal on the clerk's record be
25 filed as provided by rule of the supreme court.

26 (3) No fee shall be collected when a petition for relinquishment of
27 parental rights is filed pursuant to RCW 26.33.080 or for forms and
28 instructional brochures provided under RCW 26.50.030.

29 (4) No fee shall be collected when an abstract of judgment is filed
30 by the county clerk of another county for the purposes of collection of
31 legal financial obligations.

32 (5)(a) Until July 1, 2017, in addition to the fees required to be
33 collected under this section, clerks of the superior courts must
34 collect surcharges as provided in this subsection (5) of which seventy-
35 five percent must be remitted to the state treasurer for deposit in the
36 judicial stabilization trust account and twenty-five percent must be
37 retained by the county.

1 (b) On filing fees required to be collected under subsection (2)(b)
2 of this section, a surcharge of thirty dollars must be collected.

3 (c) On all filing fees required to be collected under this section,
4 except for fees required under subsection (2)(b), (d), and (h) of this
5 section, a surcharge of forty dollars must be collected.

6 **Sec. 9.** RCW 9.94A.760 and 2011 c 106 s 3 are each amended to read
7 as follows:

8 (1) Whenever a person is convicted in superior court, the court may
9 order the payment of a legal financial obligation as part of the
10 sentence. When ordering payment of legal financial obligations, the
11 court shall consider the defendant's ability to pay and the impact that
12 legal financial obligations may have on the defendant's ability to
13 satisfy any restitution obligation and successfully reenter.

14 (a) The court must on either the judgment and sentence or on a
15 subsequent order to pay, designate the total amount of a legal
16 financial obligation and segregate this amount among the separate
17 assessments made for restitution, costs, fines, and other assessments
18 required by law.

19 (b) On the same order, the court is also to set a sum that the
20 offender is required to pay on a monthly basis towards satisfying the
21 legal financial obligation. If the court fails to set the offender
22 monthly payment amount, the department shall set the amount if the
23 department has active supervision of the offender, otherwise the county
24 clerk shall set the amount.

25 (c) In setting the monthly payment amount, the court, department,
26 or county clerk must consider the defendant's income, living expenses,
27 earning capacity, outstanding debts and liabilities, the availability
28 and convertibility of any personal or real property owned by the
29 defendant, and any other circumstances that would impair the
30 defendant's ability to pay monetary obligations. The court,
31 department, and county clerk may not consider funds received by the
32 defendant from needs-based public assistance programs as available for
33 payment of nonrestitution legal financial obligations.

34 (d) Upon receipt of an offender's monthly payment, restitution
35 shall be paid prior to any payments of other monetary obligations.
36 After restitution is satisfied in all cases involving the offender in

1 the jurisdiction, the county clerk shall distribute the payment
2 proportionally among all other fines, costs, and assessments imposed,
3 unless otherwise 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. A defendant
12 who is indigent, as defined by RCW 10.101.010, is presumed to lack the
13 means to pay for the cost of incarceration. Payment of other court-
14 ordered financial obligations, including all legal financial
15 obligations and costs of supervision shall take precedence over the
16 payment of the cost of incarceration ordered by the court. All funds
17 recovered from offenders for the cost of incarceration in the county
18 jail shall be remitted to the county and the costs of incarceration in
19 a prison shall be remitted to the department.

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

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

37 (4) Independent of the department or the county clerk, the party or
38 entity to whom the legal financial obligation is owed shall have the

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

1 offender during any subsequent period of time the offender remains
2 under the court's jurisdiction. The county clerk is authorized to
3 collect unpaid legal financial obligations at any time the offender
4 remains under the jurisdiction of the court for purposes of his or her
5 legal financial obligations.

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

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

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

32 (b) Subsequent to any period of supervision, or if the department
33 is not authorized to supervise the offender in the community, the
34 county clerk may make a recommendation to the court that the offender's
35 monthly payment schedule be modified so as to reflect a change in
36 financial circumstances. If the county clerk sets the monthly payment
37 amount, or if the department set the monthly payment amount and the
38 department has subsequently turned the collection of the legal

1 financial obligation over to the county clerk, the clerk may modify the
2 monthly payment amount without the matter being returned to the court.
3 During the period of repayment, the county clerk may require the
4 offender to report to the clerk for the purpose of reviewing the
5 appropriateness of the collection schedule for the legal financial
6 obligation. During this reporting, the offender is required under oath
7 to respond truthfully and honestly to all questions concerning earning
8 capabilities and the location and nature of all property or financial
9 assets. The offender shall bring all documents requested by the county
10 clerk in order to prepare the collection schedule.

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

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

30 (10) The requirement that the offender pay a monthly sum towards a
31 legal financial obligation constitutes a condition or requirement of a
32 sentence and the offender is subject to the penalties for noncompliance
33 as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740.

34 (11) At any time after sentencing, the offender may petition the
35 court for a full or partial waiver of any nonrestitution legal
36 financial obligations. The court may grant the petition for a waiver
37 of nonrestitution legal financial obligations if the court finds that
38 the offender is indigent, as defined by RCW 10.101.010, that payment of

1 nonrestitution legal financial obligations would cause undue hardship
2 to the offender or his or her dependents, or that waiver of
3 nonrestitution legal financial obligations will assist the offender in
4 completing payment of restitution.

5 (12) At any time after sentencing, the offender may petition the
6 court to convert any nonrestitution legal financial obligations to
7 community service at a nonprofit organization or governmental agency.
8 The court may grant the petition to convert nonrestitution legal
9 financial obligations to community service if the court finds that the
10 defendant is indigent, as defined by RCW 10.101.010, or that payment of
11 legal financial obligations would cause undue hardship to the defendant
12 or his or her dependents.

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

16 (b) The billing shall direct payments, other than outstanding cost
17 of supervision assessments under RCW 9.94A.780, parole assessments
18 under RCW 72.04A.120, and cost of probation assessments under RCW
19 9.95.214, to the county clerk, and cost of supervision, parole, or
20 probation assessments to the department.

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

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

26 ~~((+12+))~~ (14) The department shall arrange for the collection of
27 unpaid legal financial obligations during any period of supervision in
28 the community through the county clerk. The department shall either
29 collect unpaid legal financial obligations or arrange for collections
30 through another entity if the clerk does not assume responsibility or
31 is unable to continue to assume responsibility for collection pursuant
32 to subsection (4) of this section. The costs for collection services
33 shall be paid by the offender.

34 ~~((+13+))~~ (15) The county clerk may access the records of the
35 employment security department for the purposes of verifying employment
36 or income, seeking any assignment of wages, or performing other duties
37 necessary to the collection of an offender's legal financial
38 obligations.

1 (~~(14)~~) (16) Nothing in this chapter makes the department, the
2 state, the counties, or any state or county employees, agents, or other
3 persons acting on their behalf liable under any circumstances for the
4 payment of these legal financial obligations or for the acts of any
5 offender who is no longer, or was not, subject to supervision by the
6 department for a term of community custody, and who remains under the
7 jurisdiction of the court for payment of legal financial obligations.

8 **Sec. 10.** RCW 9.94B.040 and 2002 c 175 s 8 are each amended to read
9 as follows:

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

13 (2) In cases where conditions from a second or later sentence of
14 community supervision begin prior to the term of the second or later
15 sentence, the court shall treat a violation of such conditions as a
16 violation of the sentence of community supervision currently being
17 served.

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

20 (a)(i) Following the violation, if the offender and the department
21 make a stipulated agreement, the department may impose sanctions such
22 as work release, home detention with electronic monitoring, work crew,
23 community restitution, inpatient treatment, daily reporting, curfew,
24 educational or counseling sessions, supervision enhanced through
25 electronic monitoring, jail time, or other sanctions available in the
26 community.

27 (ii) Within seventy-two hours of signing the stipulated agreement,
28 the department shall submit a report to the court and the prosecuting
29 attorney outlining the violation or violations, and sanctions imposed.
30 Within fifteen days of receipt of the report, if the court is not
31 satisfied with the sanctions, the court may schedule a hearing and may
32 modify the department's sanctions. If this occurs, the offender may
33 withdraw from the stipulated agreement.

34 (iii) If the offender fails to comply with the sanction
35 administratively imposed by the department, the court may take action
36 regarding the original noncompliance. Offender failure to comply with

1 the sanction administratively imposed by the department may be
2 considered an additional violation.

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

9 (c) The state has the burden of showing noncompliance by a
10 preponderance of the evidence.

11 (d) If the court finds that the violation has occurred, it may
12 order the offender to be confined for a period not to exceed sixty days
13 for each violation, and may (i) convert a term of partial confinement
14 to total confinement, (ii) convert community restitution obligation to
15 total or partial confinement, (iii) convert monetary obligations,
16 except restitution (~~and the crime victim penalty assessment~~), to
17 community restitution hours at the rate of the state minimum wage as
18 established in RCW 49.46.020 for each hour of community restitution,
19 (~~or~~) (iv) on the motion of the defendant, convert nonrestitution
20 legal financial obligations to a reasonable number of community service
21 hours to be performed at a nonprofit organization or governmental
22 agency; or (v) order one or more of the penalties authorized in (a)(i)
23 of this subsection. Any time served in confinement awaiting a hearing
24 on noncompliance shall be credited against any confinement order by the
25 court;

26 (~~(d)~~) (e) A defendant who lacks the present ability to pay has
27 not willfully failed to comply with payment of legal financial
28 obligations. In determining ability to pay, the court shall inquire
29 into (i) the defendant's present income and living expenses; (ii) the
30 defendant's outstanding debts and liabilities; (iii) the availability
31 and convertibility, without undue hardship to the defendant or the
32 defendant's dependents, of any personal or real property owned by the
33 defendant; (iv) the defendant's reasonable efforts to acquire the
34 resources to pay monetary obligations; and (v) any other circumstances
35 that would impair the defendant's ability to pay monetary obligations.
36 A defendant who is indigent, as defined by RCW 10.101.010, is presumed
37 to lack present ability to pay. If the court finds that the violation
38 was not willful, the court (~~may~~) shall consider whether to waive

1 nonrestitution legal financial obligations or modify its previous order
2 regarding payment of legal financial obligations (~~(and regarding)~~) or
3 community restitution obligations; and

4 ~~((e))~~ (f) If the violation involves a failure to undergo or
5 comply with mental status evaluation and/or outpatient mental health
6 treatment, the community corrections officer shall consult with the
7 treatment provider or proposed treatment provider. Enforcement of
8 orders concerning outpatient mental health treatment must reflect the
9 availability of treatment and must pursue the least restrictive means
10 of promoting participation in treatment. If the offender's failure to
11 receive care essential for health and safety presents a risk of serious
12 physical harm or probable harmful consequences, the civil detention and
13 commitment procedures of chapter 71.05 RCW shall be considered in
14 preference to incarceration in a local or state correctional facility.

15 (4) The community corrections officer may obtain information from
16 the offender's mental health treatment provider on the offender's
17 status with respect to evaluation, application for services,
18 registration for services, and compliance with the supervision plan,
19 without the offender's consent(~~(, as described under RCW 71.05.630)~~).

20 (5) An offender under community placement or community supervision
21 who is civilly detained under chapter 71.05 RCW, and subsequently
22 discharged or conditionally released to the community, shall be under
23 the supervision of the department of corrections for the duration of
24 his or her period of community placement or community supervision.
25 During any period of inpatient mental health treatment that falls
26 within the period of community placement or community supervision, the
27 inpatient treatment provider and the supervising community corrections
28 officer shall notify each other about the offender's discharge,
29 release, and legal status, and shall share other relevant information.

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

32 **Sec. 11.** RCW 10.01.180 and 2010 c 8 s 1006 are each amended to
33 read as follows:

34 (1) A defendant sentenced to pay a fine or costs who willfully
35 defaults in the payment thereof or of any installment is in contempt of
36 court as provided in chapter 7.21 RCW. The court may issue a warrant
37 of arrest for his or her appearance.

1 (2) When a fine or assessment of costs is imposed on a corporation
2 or unincorporated association, it is the duty of the person authorized
3 to make disbursement from the assets of the corporation or association
4 to pay the fine or costs from those assets, and his or her failure to
5 do so may be held to be contempt.

6 (3) A defendant's failure to pay is not willful if he or she lacks
7 the present ability to pay. In determining ability to pay, the court
8 shall inquire into (a) the defendant's income and living expenses; (b)
9 the defendant's outstanding debts and liabilities; (c) the availability
10 and convertibility, without undue hardship to the defendant or the
11 defendant's dependents, of any personal or real property owned by the
12 defendant; (d) the defendant's reasonable efforts to acquire additional
13 resources to pay monetary obligations; and (e) any other circumstances
14 that would impair the defendant's ability to pay monetary obligations.
15 A defendant who is indigent, as defined by RCW 10.101.010, is presumed
16 to lack the present ability to pay.

17 (4) If a term of imprisonment for contempt for nonpayment of a fine
18 or costs is ordered, the term of imprisonment shall be set forth in the
19 commitment order, and shall not exceed one day for each twenty-five
20 dollars of the fine or costs, thirty days if the fine or assessment of
21 costs was imposed upon conviction of a violation or misdemeanor, or one
22 year in any other case, whichever is the shorter period. A person
23 committed for nonpayment of a fine or costs shall be given credit
24 toward payment for each day of imprisonment at the rate specified in
25 the commitment order.

26 ((+4)) (5) If it appears to the satisfaction of the court that the
27 default in the payment of a fine or costs is not contempt, the court
28 may enter an order allowing the defendant additional time for payment,
29 reducing the amount thereof or of each installment, converting the fine
30 or cost to a reasonable number of hours of community service at the
31 request of the defendant, or revoking the fine or costs or the unpaid
32 portion thereof in whole or in part.

33 ((+5)) (6) A default in the payment of a fine or costs or any
34 installment thereof may be collected by any means authorized by law for
35 the enforcement of a judgment. The levy of execution for the
36 collection of a fine or costs shall not discharge a defendant committed
37 to imprisonment for contempt until the amount of the fine or costs has
38 actually been collected.

1 **Sec. 12.** RCW 36.23.110 and 2003 c 379 s 20 are each amended to
2 read as follows:

3 The Washington association of county officials, in consultation
4 with county clerks, shall determine a funding formula for allocation of
5 moneys to counties for purposes of collecting legal financial
6 obligations, and report this formula to the legislature and the
7 administrative office of the courts by September 1, 2003. The
8 Washington association of county officials shall report on the amounts
9 of legal financial obligations collected by the county clerks and the
10 costs to the county and municipalities in collecting legal financial
11 obligations to the appropriate committees of the legislature no later
12 than ((December)) June 1, ((2004)) 2015, and annually thereafter.

--- END ---