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**SECOND SUBSTITUTE SENATE BILL 5663**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Dhingra, Hasegawa, Saldaña, Stanford, and C. Wilson)

AN ACT Relating to establishing streamlined procedures for compliance with the State v. Blake decision in order to improve criminal justice system coordination, create efficiencies, and reduce costs; amending RCW 72.09.480 and 72.09.450; adding a new chapter to Title 10 RCW; and declaring an emergency.

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

NEW SECTION. **Sec.**  LEGISLATIVE FINDINGS. Due to the Washington supreme court's decision in *State v. Blake*, 197 Wn.2d 170, 174, 481 P.3d 521 (2021), all convictions since 1971 for simple drug possession are constitutionally void. This decision requires vacation of tens of thousands of convictions entered in the superior, district, and municipal courts. Under due process, a conviction vacated due to *Blake* requires a refund of any legal financial obligations and collection costs paid pursuant to that conviction. Since *Blake* was issued in February 2021, the state's criminal justice system has vacated over 15,000 cases, focusing first on persons currently incarcerated, under active supervision, or on warrant status. Using funds appropriated during the 2020 legislative session, efforts are ongoing to vacate additional cases and refund legal financial obligations and collection costs, but it is likely that the total number of convictions subject to *Blake* over the last 50 years exceed 150,000. As such, the legislature finds it is necessary to implement a concerted and coordinated procedure to vacate these convictions using a proactive and steady workflow that allows for rapid resolution of large numbers of cases over time. Because vacation of these convictions falls within the jurisdiction of the originating court, a procedure that utilizes current court rules and existing mechanisms of the state's criminal justice system is the most efficient way to vacate affected convictions. Once a conviction is vacated and a legal financial obligation refund is determined, a centralized method for disbursing refunds will most efficiently return money to affected people.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Available court records" means court records that are readily available to court personnel.

(2) "Convictions for simple drug possession" includes all convictions or juvenile adjudications since adoption of the uniform controlled substances act of 1971 for possession of any controlled substance, attempted possession of any controlled substance, conspiracy to possess any controlled substance, or solicitation to possess any controlled substance, under the authority of statute, or an ordinance authorized by statute, where the statute or ordinance did not require proof of intentional possession of the controlled substance. It also includes convictions for offenses where a prior conviction for simple drug possession serves as an element of the subsequent offense.

(3) "Legal financial obligations and collection costs" means a sum of money that is ordered by court in connection with a conviction for a crime, or assessed as part of a diversion program, deferred sentence, or similar program, and actually paid by the defendant or on the defendant's behalf, which may include restitution to the victim, statutorily imposed crime victims' compensation fees, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of the conviction, or assessed as part of a diversion program, deferred sentence, or similar program which resulted in dismissal or nonfiling of a charge. It also includes penalties, interest, fees, and collection costs authorized by law for the collection or enforcement of legal financial obligations.

(4) "Nonconviction" includes all adult and juvenile charges for simple drug possession offenses that were dismissed or not filed following successful completion of a diversion program, deferred sentence, or similar program.

NEW SECTION. **Sec.**  SUPERIOR AND DISTRICT COURT VACATIONS. (1) In coordination with the superior court clerk or district court administrator within each county, the administrator of the administrative office of the courts shall develop comprehensive, line-item reports for each court of all persons with existing convictions for simple drug possession since 1971. The report will be based on available court records and list convictions and nonconvictions chronologically by cause number in a readily searchable and sortable format. For each cause number subject to the *Blake* decision, the report shall include the person's name, birth date, last known address, date of the judgment and sentence or dismissals pursuant to successful completion of a diversion program, a listing of all conviction counts for simple drug possession in the judgment and sentence or order of dismissal pursuant to successful completion of a diversion program, and a listing of all conviction counts for other offenses in the judgment and sentence. The administrator will indicate any period of time where court records are unavailable. The superior court clerk or district court administrator shall develop a similar report of all sealed cases of persons with convictions and nonconvictions for simple drug possession since 1971. This shall be kept confidential and shall only be shared with the administrator.

(2) In compiling the report, the administrator, with the assistance of the department of corrections and the superior court clerk or district court administrator, shall prioritize cases in the following order: (a) The person is incarcerated due to a qualifying conviction; (b) the person is incarcerated with a qualifying conviction in the person's criminal history score; (c) the person is under active or inactive supervision; and (d) the person has a past conviction or nonconviction for a qualifying offense. Within six months of the effective date of this section, for court records that are available to court personnel electronically, the administrator shall complete the report for persons under (a), (b), or (c) of this subsection. For persons under (d) of this subsection, for court records that are available to court personnel electronically, the administrator shall complete the report by January 1, 2023. Any nonelectronic court records, to include paper records or records found on microfische, shall be compiled by July 1, 2023. Reports compiled under this section are exempt from public disclosure.

(3)(a) Upon availability, the administrator shall provide completed installments of the report of convictions and nonconvictions to local public defense offices, the Washington state office of public defense, county prosecutors, and the superior court clerk or district court administrator. Local public defense offices shall provide initial review of cause numbers compiled under subsection (2)(a) through (c) of this section to determine whether a person's conviction is subject to vacation under the *Blake* decision and to provide an initial assessment as to case priority, unless the local jurisdiction requests such review from the Washington state office of public defense. Following such review, the local office of public defense or the Washington state office of public defense will provide the appropriate local prosecutor with a list of cause numbers compiled under subsection (2)(a) through (c) of this section to be prioritized for *Blake* relief. Individuals currently under the jurisdiction of the department of corrections, whose possession vacations would result in a shortened sentence, are to be prioritized for resentencing.

(b) The county prosecutor shall review each cause number on the report compiled under subsection (2)(d) of this section to determine whether a person's conviction was for simple drug possession, or whether a person's nonconviction resulted from an underlying charge for simple drug possession. When a person, or his or her legal representative, informs the prosecutor that he or she is facing immigration consequences such as deportation or bars to obtaining lawful status, the prosecutor shall prioritize the case. The prosecutor shall also prioritize cause numbers compiled under reports provided by local public defense offices or the Washington state office of public defense.

(c) When the prosecutor determines that a conviction is subject to vacation and appropriate for vacation, the prosecutor shall prepare an ex parte motion on behalf of the state under CrR 7.8 or CrRLJ 7.8 that asks the court to vacate the person's prior convictions for simple drug possession. Such a motion shall expressly state the motion is pursuant to *State v. Blake*'s holding that RCW 69.50.4013 is unconstitutional. By filing such a motion, the prosecutor agrees not to file additional or new charges for the acts described in the information. For nonconviction cases with an underlying *Blake* charge, the prosecutor shall bring an ex parte motion to refund legal financial obligations and collection costs paid under the cause number. If the prosecutor determines that a conviction or nonconviction data is improperly included on the report due to a clerical error because the actual conviction on the judgment and sentence is not a conviction for simple drug possession, the prosecutor shall file a "Notice of *Blake* Correction" with the superior court clerk or the district court administrator and send notice to the affected person at the person's last known address. A copy shall also be sent to the local office of public defense or local defense administrator, or where no local office or local administrator exists, notice shall be sent to the Washington state office of public defense. Absent vacation of the prior conviction for simple drug possession by ex parte motion, nothing in this section precludes the prosecutor from filing additional or new charges where allowed by law.

(d) If the person is indigent as defined in RCW 10.101.010, the court or the responsible local public defense authority shall appoint counsel, upon request, to a person who has been precluded from obtaining a vacation to assist the person in understanding the person's options for challenging the decision, and to assist the person in bringing a good faith challenge to the decision. For the purposes of this chapter, incarcerated persons are presumed indigent.

(4) The court shall consider the prosecutor's motion to vacate on paper without the presence of the prosecutor. If the court vacates a conviction for simple drug possession, the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction, and the person shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, a person whose conviction has been vacated may state that the person has never been convicted of that crime. A conviction that has been vacated under this section may not be disseminated or disclosed by the Washington state patrol or local law enforcement agency to any person.

(5)(a) A court vacating a conviction for simple drug possession shall address whether legal financial obligations must be refunded to the person.

(i) When the sole crime of conviction under a cause number is simple drug possession, the court shall order a refund of all legal financial obligations and collection costs paid under that cause number. Nothing in this act limits the ability of an affected person to challenge the refund amount as insufficient upon actual notice of the refund amount. The affected person will have a right to the assistance of counsel in reviewing the determination and in bringing a good faith challenge in the court that issued the order.

(ii) Where a cause number includes both convictions for simple drug possession and other offenses not subject to vacation under the *Blake* decision, legal financial obligations and collection costs paid under that cause number shall not be refunded except where it is clear on the face of the judgment and sentence that a legal financial obligation arose solely from a vacated simple drug possession conviction.

(b) For motions in nonconviction cause numbers, the court shall order a refund of the legal financial obligations and collection costs assessed to the defendant as part of a diversion program, deferred sentence, or similar program, including drug or other therapeutic court, and actually paid by the defendant or on the defendant's behalf.

(c) Nothing in this act limits the ability of an affected person to challenge the refund amount as insufficient upon actual notice of the refund amount. Where indigent, the affected person will have a right to the assistance of counsel in reviewing the determination and in bringing a good faith challenge in the court that issued the order.

(d) If the court determines that a refund of legal financial obligations and collection costs is appropriate, the vacation order shall direct the superior court clerk or district court administrator to cancel any unpaid legal financial obligation and collection cost balances. The order shall further direct the superior court clerk or district court administrator to compute all legal financial obligations and collection costs paid by the person that arise from the vacated counts or from a nonconviction, which amounts shall be certified by the superior court clerk or the district court administrator. A copy of the certification shall be sent to the administrator of the administrative office of the courts. Upon application to the superior court clerk or district court administrator and verification of the person's identity, the court clerk or administrator may initiate payment of the refund amount out of funds appropriated by the state for this purpose. Following issuance of a refund under a cause number, the court clerk or administrator shall update the case file.

(6) Where it is necessary to resentence a person or amend the existing sentence in connection with a vacation, the matter will proceed under the court rules with notice to the defendant. Defense counsel shall be appointed where required by law. If the person is indigent as defined in RCW 10.101.010, the court or the responsible local public defense authority shall appoint counsel. For the purposes of this chapter, incarcerated persons are presumed indigent. The court shall notify the local office of public defense or local defense administrator, or where no local office or local administrator exists, notice shall be sent to the Washington state office of public defense. Nothing in this act limits the court's sentencing authority or its authority to resentence.

(7) The prosecutor shall take action to quash judicial warrants based solely on underlying charges for simple drug possession or other offenses where a conviction for simple drug possession serves as an element of the crime. Within nine months of the effective date of this section, the prosecutor shall certify to the administrator of the administrative office of the courts that all such warrants have been submitted to a judicial officer for action quashing the warrant. If exceptional circumstances apply, and a prosecutor cannot meet the nine-month deadline, the prosecutor shall provide an estimate for a reasonable extension to the administrator of the administrative office of the courts.

(8) Within appropriated funds, the administrator of the administrative office of the courts shall contract with each county to ensure sufficient availability of clerks, prosecutors, defenders, judicial officers, and courtroom space. The director of the state office of public defense shall contract with each county to ensure sufficient availability of defenders to complete all work required by this section within five years of the effective date of this section. Contracts to complete resentencing, vacation, and refund work under this act may be based on actual time or upon the average time necessary to complete a task. The work required by this section is deemed complete when all warrants have been quashed and all cause numbers on the report have been dismissed, vacated, resentenced, or otherwise addressed through a "Notice of *Blake* Correction." The superior court clerk or district court administrator shall track resolution of all cause numbers on the report. On a quarterly basis, the superior court clerk and the district court administrator shall report the following to the administrator of the administrative office of the courts: (a) Vacated cause numbers; (b) resentenced cause numbers; (c) cases where the prosecutor has filed a "Notice of *Blake* Correction"; and (d) the number of cases on the report awaiting action.

(9) Nothing in this section precludes a person from filing a motion under his or her own criminal cause number to vacate a prior conviction for simple drug possession or be resentenced pursuant to *Blake*. Defense counsel shall be appointed where required by law. If the person is indigent as defined in RCW 10.101.010, the court or the responsible local public defense authority shall appoint counsel. For the purposes of this chapter, incarcerated persons are presumed indigent. The court shall notify the local office of public defense or local defense administrator, or where no local office or local administrator exists, notice shall be sent to the Washington state office of public defense. A motion for resentencing or vacation under *Blake* is not subject to the restrictions in chapter 10.73 RCW and does not adversely impact the defendant's ability to bring subsequent collateral attacks on different grounds. Nothing in this section precludes a person from appealing any order entered under this section.

NEW SECTION. **Sec.**  MUNICIPAL COURT VACATIONS. (1) Within six months of the effective date of this section, each city with a municipal court shall determine whether the *Blake* decision applies to any municipal convictions for simple drug possession since 1971. If requested by the city, the administrator of the administrative office of the courts shall coordinate with the municipal court administrator to develop a comprehensive report for each city of all persons with existing convictions for simple drug possession since 1971. The report will be based on available court records and list convictions and nonconvictions chronologically by cause number in a readily searchable and sortable format. For each cause number subject to the *Blake* decision, the report shall include the person's name, birth date, last known address, date of the judgment and sentence or dismissals pursuant to successful completion of a diversion program, a listing of all conviction counts for simple drug possession in the judgment and sentence or dismissal, and a listing of all counts for other offenses in the judgment and sentence. The administrator will indicate any period of time where court records are unavailable. The municipal court administrator shall develop a similar report of all sealed cases of persons convicted of simple drug possession since 1971.

(2) In compiling the report, the administrator, with the assistance of the department of corrections and the municipal court administrator, shall prioritize cases in the following order: (a) The person is incarcerated due to a qualifying conviction; (b) the person is incarcerated with a qualifying conviction in the person's criminal history score; (c) the person is under active or inactive supervision; and (d) the person has a past conviction or nonconviction for a qualifying offense. Within six months of the city's request under subsection (1) of this section, for court records that are available to court personnel electronically, the administrator shall complete the report for persons under (a), (b), or (c) of this subsection. For persons under (d) of this subsection, for court records that are available to court personnel electronically, the administrator shall complete the report within nine months of the city's request under subsection (1) of this section. Any nonelectronic court records, to include paper records or records found on microfiche, shall be compiled by July 1, 2023. Reports compiled under this section are exempt from public disclosure.

(3)(a) Upon availability, the administrator shall provide completed installments of the report of convictions and nonconvictions to the local public defense offices, the Washington state office of public defense, city prosecutors, and the municipal court administrator. Local public defense offices shall provide initial review of cause numbers compiled under subsection (2)(a) through (c) of this section to determine whether a person's conviction is subject to vacation under the *Blake* decision and to provide an initial assessment as to case priority, unless the local jurisdiction requests such review from the Washington state office of public defense. Following such review, the local office of public defense or the Washington state office of public defense will provide the appropriate local prosecutor with a list of cause numbers compiled under subsection (2)(a) through (c) of this section to be prioritized for *Blake* relief. Individuals currently under the jurisdiction of the department of corrections, whose possession vacations would result in a shortened sentence, are to be prioritized for resentencing.

(b) The city prosecutor shall review each cause number on the report compiled under subsection (2)(d) of this section to determine whether a person's conviction was for simple drug possession, or whether a person's nonconviction resulted from an underlying charge for simple drug possession. When a person, or the person's legal representative, informs the prosecutor that the person is facing immigration consequences, such as deportation or bars to obtaining lawful status, the prosecutor shall prioritize the case. The prosecutor shall also prioritize cause numbers compiled under reports provided by local public defense offices or the Washington state office of public defense.

(c) When the city prosecutor determines that a conviction is subject to vacation and appropriate for vacation, the prosecutor shall prepare an ex parte motion under CrRLJ 7.8 asking the court to vacate the person's prior conviction or convictions for simple drug possession. Such a motion shall expressly state the motion is pursuant to *State v. Blake*'s holding that RCW 69.50.4013 is unconstitutional. By filing such a motion, the prosecutor agrees not to file additional charges for the acts described in the information. For nonconviction cases with an underlying *Blake* charge, the prosecutor shall bring an ex parte motion to refund legal financial obligations and collection costs paid under the cause number. If the prosecutor determines that a conviction or nonconviction data is improperly included on the report due to a clerical error because the actual conviction on the judgment and sentence is not a conviction for simple drug possession, the prosecutor shall file a "Notice of *Blake* Correction" with the municipal court administrator and send notice to the affected person at the person's last known address. A copy shall also be sent to the local office of public defense or local defense administrator, or where no local office or local administrator exists, notice shall be sent to the Washington state office of public defense. Absent vacation of the prior conviction for simple drug possession by ex parte motion, nothing in this section precludes the prosecutor from filing additional or new charges where allowed by law.

(d) If a person is indigent as defined in RCW 10.101.010, the court or the responsible local public defense authority shall appoint counsel, upon request, to a person who has been precluded from obtaining a vacation to assist the person in understanding the person's options for challenging the decision, and to assist the person in bringing a good faith challenge to the decision. For the purposes of this chapter, incarcerated persons are presumed indigent.

(4) The court shall consider the prosecutor's motion to vacate on paper without the presence of the prosecutor. If the court vacates a conviction for simple drug possession, the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction, and the person shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, a person whose conviction has been vacated may state that the person has never been convicted of that crime. A conviction that has been vacated under this section may not be disseminated or disclosed by the Washington state patrol or local law enforcement agency to any person.

(5)(a) A court vacating a conviction for simple drug possession shall address whether legal financial obligations must be refunded to the person.

(i) When the sole crime of conviction under a cause number is simple drug possession, the court shall order a refund of all legal financial obligations and collection costs paid under that cause number. Nothing in this act limits the ability of an affected person to challenge the refund amount as insufficient upon actual notice of the refund amount. The affected person will have a right to the assistance of counsel in reviewing the determination and in bringing a good faith challenge in the court that issued the order.

(ii) Where a cause number includes both convictions for simple drug possession and other offenses not subject to vacation under the *Blake* decision, legal financial obligations and collection costs paid under that cause number shall not be refunded except where it is clear on the face of the judgment and sentence that a legal financial obligation arises solely from a vacated simple drug possession conviction.

(b) For motions in nonconviction cause numbers, the court shall order a refund of the fees assessed to the defendant as part of a diversion program, deferred sentence, or similar program, and actually paid by the defendant or on the defendant's behalf.

(c) Nothing in this act limits the ability of an affected person to challenge the refund amount as insufficient upon actual notice of the refund amount. Where indigent, the affected person will have a right to the assistance of counsel in reviewing the determination and in bringing a good faith challenge in the court that issued the order.

(d) If the court determines that a refund of legal financial obligations and collection costs is appropriate, the vacation order shall direct the municipal court administrator to cancel any unpaid legal financial obligation and collection cost balances. The order shall further direct the municipal court administrator to compute all legal financial obligations and collection costs paid by the person that arise from the vacated counts or from a nonconviction, which amounts shall be certified by the municipal court administrator. A copy of the certification shall be sent to the administrator of the administrative office of the courts. Upon application to the municipal court administrator and verification of the person's identity, the municipal court administrator may initiate payment of the refund amount out of funds appropriated by the state for this purpose. Following issuance of a refund under a cause number, the administrator shall update the case file.

(6) Where it is necessary to resentence a person or amend the existing sentence in connection with a vacation, the matter will proceed under the court rules with notice to the defendant. Defense counsel shall be appointed where required by law. If the person is indigent as defined in RCW 10.101.010, the court or the responsible local public defense authority shall appoint counsel. For the purposes of this chapter, incarcerated persons are presumed indigent. The court shall notify the local office of public defense or local defense administrator, or where no local office or local administrator exists, notice shall be sent to the Washington state office of public defense. Nothing in this act limits the court's sentencing authority or its authority to resentence.

(7) The prosecutor shall take action to quash any judicial warrants based solely on underlying charges for simple drug possession or other offenses where a conviction for simple drug possession is an element of the crime. Within nine months of the effective date of this section, the prosecutor shall certify to the administrator of the administrative office of the courts that all such warrants have been submitted to a judicial officer for action quashing the warrant. If exceptional circumstances apply, and a prosecutor cannot meet the nine-month deadline, the prosecutor shall provide an estimate for a reasonable extension to the administrator of the administrative office of the courts.

(8) Within appropriated funds, the administrator of the administrative office of the courts shall contract with each city to ensure sufficient availability of clerks, prosecutors, defenders, judicial officers, and courtroom space to complete all work required by this section within five years of the effective date of this section. Contracts to complete resentencing, vacation, and refund work under this act may be based on actual time or upon the average time necessary to complete a task. The work required by this section is deemed complete when all warrants have been quashed and all cause numbers on the report have been dismissed, vacated, resentenced, or otherwise addressed through a "Notice of *Blake* Correction." The municipal court administrator shall track resolution of all cause numbers on the report. On a quarterly basis, the municipal court administrator shall report the following to the administrator of the administrative office of the courts: (a) Vacated cause numbers; (b) resentenced cause numbers; (c) cases where the prosecutor has filed a "Notice of *Blake* Correction"; and (d) the number of cases on the report awaiting action.

(9) Nothing in this section precludes a person from filing a motion under his or her own criminal cause number to vacate a prior conviction for simple drug possession or be resentenced pursuant to *Blake*. Defense counsel shall be appointed where required by law. If the person is indigent as defined in RCW 10.101.010, the court or the responsible local public defense authority shall appoint counsel. For the purposes of this chapter, incarcerated persons are presumed indigent. The court shall notify the local office of public defense or local defense administrator, or where no local office or local administrator exists, notice shall be sent to the Washington state office of public defense. A motion for resentencing or vacation under *Blake* is not subject to the restrictions in chapter 10.73 RCW and does not adversely impact the defendant's ability to bring a subsequent collateral attack on different grounds. Nothing in this section precludes a person from appealing any order entered under this section.

NEW SECTION. **Sec.**  LEGAL FINANCIAL OBLIGATION REFUNDS. (1)(a) The administrator of the administrative office of the courts shall receive copies of certifications of legal financial obligations and collection costs paid by persons that arise from the vacation of convictions or nonconvictions for simple drug possession in the superior, district, or municipal courts. The administrator shall publicize the availability of refunds and the process for obtaining those refunds and shall create a searchable online database for persons to search whether amounts may be owed to them.

(b) The administrator shall provide specific notice to persons still living whom the superior court clerk, district court administrator, or municipal court administrator has certified under section 3 or 4 of this act are due refunds of legal financial obligations and collection costs. Such notice shall be accomplished by first-class mail to the person's last known address. To determine the last known address, the administrator may consult databases maintained by the department of corrections and the department of licensing.

(c) The administrator, in coordination with the superior court clerks, district court administrators, and municipal court administrators, shall create a model application form that may be used for persons to submit to the court for purposes of obtaining a refund.

(2) Within appropriated funds, the administrator shall contract with each county for reimbursement of legal financial obligations and collection costs paid by the superior court clerk, the district court administrator, or the municipal court administrator.

(3) The process established in this act is the exclusive means to obtain a refund of any legal financial obligations and collection costs paid by a person with a prior or vacated conviction or nonconviction for simple drug possession. No civil action may be filed against the state, counties, or cities that have requested assistance under section 4(1) of this act, nor may such an action be filed against any officials, employees, or agents of those entities seeking a refund of legal financial obligations and collection costs, other damages, or any other type of relief in connection with a prior or vacated conviction or nonconviction for simple drug possession.

(4) Any person seeking a refund of legal financial obligations and collection costs arising from a vacated conviction or nonconviction for simple drug possession shall have seven years from the effective date of this section to request a refund from the appropriate court. Any legal financial obligations and collection costs that have not been claimed within this seven-year period will escheat to the state.

NEW SECTION. **Sec.**  UNAVAILABLE COURT RECORDS. (1) Except where court records are no longer available, court records showing crimes of conviction or nonconviction and legal financial obligation and collection cost payments are presumptively correct. A person seeking to rebut this presumption may do so only by clear and convincing evidence.

(2) A person seeking vacation of a conviction within the time period where court records are unavailable may prove the existence of the conviction through a declaration accompanied by copies of a judgment and sentence, or official records reporting the conviction. Upon proof deemed adequate by the court, such a conviction is subject to potential vacation under section 3 or 4 of this act.

(3) A person seeking a refund of legal financial obligations and collection costs within the time period where court records are unavailable may prove the existence of payments by declaration accompanied by direct or secondary sources demonstrating payment.

(4) Any person contesting the existence of a conviction for simple drug possession or the amounts due for refund shall bring the matter before the court of conviction or nonconviction.

NEW SECTION. **Sec.**  WASHINGTON STATE PATROL. When presented with an order vacating a prior conviction for simple drug possession, the Washington state patrol shall remove any convictions covered by the vacation order from all criminal record information systems maintained by the Washington state patrol. In addition, the Washington state patrol shall report the vacated convictions to relevant federal authorities.

NEW SECTION. **Sec.**  LIMITATION ON LIABILITY. The state, its agencies, and its municipal subdivisions, as well as officials, employees, and agents of those entities, shall not be civilly liable for performing any duties pursuant to this act: PROVIDED, That such duties were performed in good faith and without gross negligence. Nothing in this section limits any statutory or common law immunity otherwise applicable to the state, its agencies, and its municipal subdivisions, as well as officials, employees, and agents of those entities.

**Sec.**  RCW 72.09.480 and 2015 c 238 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree or certificate education program.

(2) When an inmate, except as provided in subsections (4) ((~~and~~)), (8), and (9) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order;

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection (9) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an ((~~offender~~)) incarcerated individual or from a third party on behalf of an ((~~offender~~)) incarcerated individual for payment of education or vocational programs or postsecondary ((~~education~~)) degree or certificate education programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary ((~~education~~)) degree or certificate education programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the payment of certain medical expenses. Money received under this subsection may only be used for the payment of medical expenses associated with the purchase of eyeglasses, over-the-counter medications, and ((~~offender~~)) incarcerated individual copayments. Funds received specifically for these purposes may not be transferred to any other account or purpose. Money that remains unused in the inmate's medical fund at the time of release is subject to deductions under subsection (2) of this section.

(9) Legal financial obligations reimbursed pursuant to *State v. Blake* are exempt from the deductions requirements in subsection (2) of this section when the defendant is in custody in a correctional facility.

(10) Inmates sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

((~~(10)~~)) (11) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

((~~(11)~~)) (12) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

((~~(12)~~)) (13) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

**Sec.**  RCW 72.09.450 and 2015 c 225 s 113 are each amended to read as follows:

(1) An inmate shall not be denied access to services or supplies required by state or federal law solely on the basis of his or her inability to pay for them.

(2) The department shall record all lawfully authorized assessments for services or supplies as a debt to the department. The department shall recoup the assessments when the inmate's institutional account exceeds the indigency standard, and may pursue other remedies to recoup the assessments after the period of incarceration.

(3) The department shall record as a debt any costs assessed by a court against an inmate plaintiff where the state is providing defense pursuant to chapter 4.92 RCW. The department shall recoup the debt when the inmate's institutional account exceeds the indigency standard and may pursue other remedies to recoup the debt after the period of incarceration.

(4) In order to maximize the cost-efficient collection of unpaid offender debt existing after the period of an offender's incarceration, the department is authorized to use the following nonexclusive options: (a) Use the collection services available through the department of enterprise services, or (b) notwithstanding any provision of chapter 41.06 RCW, contract with collection agencies for collection of the debts. The costs for enterprise services or collection agency services shall be paid by the debtor. Any contract with a collection agency shall only be awarded after competitive bidding. Factors the department shall consider in awarding a collection contract include but are not limited to a collection agency's history and reputation in the community; and the agency's access to a local database that may increase the efficiency of its collections. The servicing of an unpaid obligation to the department does not constitute assignment of a debt, and no contract with a collection agency may remove the department's control over unpaid obligations owed to the department.

(5) Legal financial obligations reimbursed pursuant to *State v. Blake* are exempt from the recoupment requirements of subsection (2) of this section when the defendant is in custody in a correctional facility, but may be recouped at release from confinement.

NEW SECTION. **Sec.**  EMERGENCY CLAUSE. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  CODIFICATION DIRECTIVE. Sections 1 through 8 and 11 of this act constitute a new chapter in Title 10 RCW.

**--- END ---**