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SENATE BILL 5379

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State of Washington

54th Legislature

1995 Regular Session

By Senators Fairley, Hargrove, Long, C. Anderson, McCaslin, Schow, Johnson, Kohl and Winsley

Read first time 01/23/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to restitution; amending RCW 9.94A.142; and  
2 creating a new section.

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

4 NEW SECTION. **Sec. 1.** The 1995 c ... s 2 (section 2 of this act)  
5 amendment to RCW 9.94A.142 is intended to authorize courts to order  
6 restitution in any case sentenced prior to the effective date of this  
7 act for which no restitution order has been entered, as long as the  
8 defendant is not unfairly prejudiced by the delay.

9 **Sec. 2.** RCW 9.94A.142 and 1994 c 271 s 602 are each amended to  
10 read as follows:

11 (1) When restitution is ordered, the court shall determine the  
12 amount of restitution due at the sentencing hearing or ((~~within sixty~~  
13 ~~days~~)) at a later hearing set by the court. The court shall then set  
14 a minimum monthly payment that the offender is required to make towards  
15 the restitution that is ordered. The court should take into  
16 consideration the total amount of the restitution owed, the offender's  
17 present, past, and future ability to pay, as well as any assets that  
18 the offender may have. During the period of supervision, the community

1 corrections officer may examine the offender to determine if there has  
2 been a change in circumstances that warrants an amendment of the  
3 monthly payment schedule. The community corrections officer may  
4 recommend a change to the schedule of payment and shall inform the  
5 court of the recommended change and the reasons for the change. The  
6 sentencing court may then reset the monthly minimum payments based on  
7 the report from the community corrections officer of the change in  
8 circumstances. Restitution ordered by a court pursuant to a criminal  
9 conviction shall be based on easily ascertainable damages for injury to  
10 or loss of property, actual expenses incurred for treatment for injury  
11 to persons, and lost wages resulting from injury. Restitution shall  
12 not include reimbursement for damages for mental anguish, pain and  
13 suffering, or other intangible losses, but may include the costs of  
14 counseling reasonably related to the offense. The amount of  
15 restitution shall not exceed double the amount of the offender's gain  
16 or the victim's loss from the commission of the crime. For the  
17 purposes of this section, the offender shall remain under the court's  
18 jurisdiction for a maximum term of ten years following the offender's  
19 release from total confinement or ten years subsequent to the entry of  
20 the judgment and sentence, whichever period is longer. The portion of  
21 the sentence concerning restitution may be modified as to amount, terms  
22 and conditions during the ten-year period, regardless of the expiration  
23 of the offender's term of community supervision and regardless of the  
24 statutory maximum for the crime. The offender's compliance with the  
25 restitution shall be supervised by the department.

26 (2) Restitution shall be ordered whenever the offender is convicted  
27 of an offense which results in injury to any person or damage to or  
28 loss of property unless extraordinary circumstances exist which make  
29 restitution inappropriate in the court's judgment and the court sets  
30 forth such circumstances in the record. In addition, restitution shall  
31 be ordered to pay for an injury, loss, or damage if the offender pleads  
32 guilty to a lesser offense or fewer offenses and agrees with the  
33 prosecutor's recommendation that the offender be required to pay  
34 restitution to a victim of an offense or offenses which are not  
35 prosecuted pursuant to a plea agreement.

36 (3) In addition to any sentence that may be imposed, a defendant  
37 who has been found guilty of an offense involving fraud or other  
38 deceptive practice or an organization which has been found guilty of  
39 any such offense may be ordered by the sentencing court to give notice

1 of the conviction to the class of persons or to the sector of the  
2 public affected by the conviction or financially interested in the  
3 subject matter of the offense by mail, by advertising in designated  
4 areas or through designated media, or by other appropriate means.

5 (4) This section does not limit civil remedies or defenses  
6 available to the victim, survivors of the victim, or defendant.

7 (5) This section shall apply to offenses committed after July 1,  
8 1985.

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