

HOUSE BILL REPORT

HB 2511

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to tolling of criminal sentencing provisions.

Brief Description: Changing provisions related to legal financial obligations and allowing tolling for other forms of supervision.

Sponsors: Representatives Ballasiotes, O'Brien, Lovick, Haigh and Hurst; by request of Department of Corrections.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/1/00, 2/4/00 [DPS].

Brief Summary of Substitute Bill

- Extends the length of time the court retains jurisdiction over an offender for purposes of compliance with payment of a legal financial obligation.
- Suspends the accrual of interest on a legal financial obligation during the time an offender is incarcerated in a state, out-of-state, or federal correctional institution.
- Provides that all periods of supervision in the community are tolled when an offender is absent from supervision without approval.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Jean Ann Quinn (786-7310).

Background:

Legal Financial Obligations: Under the Sentencing Reform Act, a "legal financial obligation" is a court-imposed obligation to pay money and may consist of any of the following: restitution to the victim; statutorily imposed crime victims' compensation fees; court costs; county or inter-local drug fund assessments; court-appointed attorneys' fees and costs of defense; fines; reimbursement for emergency response expenses in the case of a DWI-related vehicular assault or vehicular homicide conviction; and any other financial obligation assessed to the offender as a result of a felony conviction. The sentence must specify the total amount of legal financial obligation owed, and require the offender to pay a specified monthly sum toward that obligation.

Interest accrues on the legal financial obligation from the date the judgment is entered, including the time during which the offender is incarcerated, at the rate applicable to civil judgments.

The Department of Corrections (DOC) must supervise the offender's compliance with payment of the legal financial obligation for 10 years following conviction or 10 years after the offender is released from total confinement, regardless of the statutory maximum for the crime. If the obligation is not paid 10 years after the offender has been released, the court may extend jurisdiction for an additional 10 years. The DOC is not responsible for supervising the offender during the additional period.

Tolling of Terms of Supervision: The term "tolling" means to stop the running of the statutory time period. A term of community custody is tolled during any time the offender has absented himself from supervision without approval or is in confinement (unless the offender is confined for violating a condition of community custody and is later found not to have committed the violation).

Summary of Substitute Bill:

Legal Financial Obligations: For an offense committed on or after July 1, 2000, the court retains jurisdiction over the offender for the purposes of compliance with the legal financial obligation until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The portion of the sentence concerning restitution may be modified as to amount, terms, or conditions during any period of time the offender is under the court's jurisdiction. For offenses committed on or after July 1, 2000, interest does not accrue while the offender is in total confinement in a state, out-of-state, or federal correctional institution. The DOC is responsible for supervising the offender's compliance with payment of legal financial obligations only for the later of 10 years after conviction, or 10 years after release from total confinement.

Tolling of Terms of Supervision: The tolling provisions apply with respect to any term of supervision, not only community custody. This includes community custody, community placement, and community supervision.

Substitute Bill Compared to Original Bill: The original bill provided that the offender would be under the jurisdiction of the court for the lifetime of the offender, without specifying that this jurisdiction ends if the legal financial obligation is satisfied. The original bill did not include the provision suspending the accrual of interest while the offender is incarcerated. The substitute bill clarifies that the tolling provisions apply to all periods of supervision in the community, including community custody, community placement, and community supervision.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This is a positive and necessary change in the law. We need to be able to hold offenders accountable. The bill was developed in response to the court's recent decision in *In re Sappenfield* preventing the tolling of legal financial obligations. The DOC agreed that the best way to handle the problem created by this decision was victims' rights groups to make the payments a lifetime obligation. There is lots of frustration from victims over this issue. Some have waited years and years to collect the restitution owed to them. Offenders should not be able to escape this obligation because they go on to commit another crime. The bill will eliminate the need for prosecutors to go into court after 10 years to petition the court for an additional 10 year extension.

Testimony Against: This is similar to imposing a life sentence on the offender. This is unnecessary to correct the problem exposed in *In re Sappenfield* which has been corrected by later amendments to the statutes. The burden can be tremendous on offenders who live in chronic poverty. If the person has not paid within the 20 year period, it is unlikely they will be able to pay at all. Thus, it is a waste of resources to expend money trying to collect after that time.

Testified: (In support) Anne Fiala, Department of Corrections; Melanie Smith, Department of Corrections; Tom McBride, Washington Association of Prosecuting Attorneys; and Suzanne Brown, Washington Coalition of Sexual Assault Project.

(Opposed) Sherry Appleton, Washington Defender Association.