

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5168

Chapter 121, Laws of 2004

58th Legislature
2004 Regular Session

LEGAL FINANCIAL OBLIGATIONS--INTEREST

EFFECTIVE DATE: 6/10/04

Passed by the Senate March 9, 2004
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 2004
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 5168 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

Approved March 24, 2004.

FILED

March 24, 2004 - 3:12 p.m.

GARY F. LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5168

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senator Hargrove)

READ FIRST TIME 02/12/03.

1 AN ACT Relating to interest on legal financial obligations; and
2 amending RCW 10.82.090, 9.94A.637, 9.94A.760, 9.94A.772, and 50.13.020.

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

4 **Sec. 1.** RCW 10.82.090 and 1995 c 291 s 7 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section, financial
7 obligations imposed in a judgment shall bear interest from the date of
8 the judgment until payment, at the rate applicable to civil judgments.
9 All nonrestitution interest retained by the court shall be split
10 twenty-five percent to the state treasurer for deposit in the public
11 safety and education account as provided in RCW 43.08.250, twenty-five
12 percent to the state treasurer for deposit in the judicial information
13 system account as provided in RCW 2.68.020, twenty-five percent to the
14 county current expense fund, and twenty-five percent to the county
15 current expense fund to fund local courts.

16 (2) The court may, on motion by the offender, following the
17 offender's release from total confinement, reduce or waive the interest
18 on legal financial obligations levied as a result of a criminal
19 conviction. The court may reduce or waive the interest only as an

1 incentive for the offender to meet his or her legal financial
2 obligations. The court may not waive the interest on the restitution
3 portion of the legal financial obligation and may only reduce the
4 interest on the restitution portion of the legal financial obligation
5 if the principal of the restitution has been paid in full. The
6 offender must show that he or she has personally made a good faith
7 effort to pay, that the interest accrual is causing a significant
8 hardship, and that he or she will be unable to pay the principal and
9 interest in full and that reduction or waiver of the interest will
10 likely enable the offender to pay the full principal and any remaining
11 interest thereon. For purposes of this section, "good faith effort"
12 means that the offender has either (a) paid the principal amount in
13 full; or (b) made twenty-four consecutive monthly payments, excluding
14 any payments mandatorily deducted by the department of corrections, on
15 his or her legal financial obligations under his or her payment
16 agreement with the court. The court may grant the motion, establish a
17 payment schedule, and retain jurisdiction over the offender for
18 purposes of reviewing and revising the reduction or waiver of interest.
19 This section applies to persons convicted as adults or in juvenile
20 court.

21 **Sec. 2.** RCW 9.94A.637 and 2003 c 379 s 19 are each amended to read
22 as follows:

23 (1)(a) When an offender has completed all requirements of the
24 sentence, including any and all legal financial obligations, and while
25 under the custody and supervision of the department, the secretary or
26 the secretary's designee shall notify the sentencing court, which shall
27 discharge the offender and provide the offender with a certificate of
28 discharge by issuing the certificate to the offender in person or by
29 mailing the certificate to the offender's last known address.

30 (b)(i) When an offender has reached the end of his or her
31 supervision with the department and has completed all the requirements
32 of the sentence except his or her legal financial obligations, the
33 secretary's designee shall provide the county clerk with a notice that
34 the offender has completed all nonfinancial requirements of the
35 sentence.

36 (ii) When the department has provided the county clerk with notice
37 that an offender has completed all the requirements of the sentence and

1 the offender subsequently satisfies all legal financial obligations
2 under the sentence, the county clerk shall notify the sentencing court,
3 including the notice from the department, which shall discharge the
4 offender and provide the offender with a certificate of discharge by
5 issuing the certificate to the offender in person or by mailing the
6 certificate to the offender's last known address.

7 (c) When an offender who is subject to requirements of the sentence
8 in addition to the payment of legal financial obligations either is not
9 subject to supervision by the department or does not complete the
10 requirements while under supervision of the department, it is the
11 offender's responsibility to provide the court with verification of the
12 completion of the sentence conditions other than the payment of legal
13 financial obligations. When the offender satisfies all legal financial
14 obligations under the sentence, the county clerk shall notify the
15 sentencing court that the legal financial obligations have been
16 satisfied. When the court has received both notification from the
17 clerk and adequate verification from the offender that the sentence
18 requirements have been completed, the court shall discharge the
19 offender and provide the offender with a certificate of discharge by
20 issuing the certificate to the offender in person or by mailing the
21 certificate to the offender's last known address.

22 (2) The court shall send a copy of every signed certificate of
23 discharge to the auditor for the county in which the court resides and
24 to the department. The department shall create and maintain a data
25 base containing the names of all felons who have been issued
26 certificates of discharge, the date of discharge, and the date of
27 conviction and offense.

28 (3) An offender who is not convicted of a violent offense or a sex
29 offense and is sentenced to a term involving community supervision may
30 be considered for a discharge of sentence by the sentencing court prior
31 to the completion of community supervision, provided that the offender
32 has completed at least one-half of the term of community supervision
33 and has met all other sentence requirements.

34 (4) Except as provided in subsection (5) of this section, the
35 discharge shall have the effect of restoring all civil rights lost by
36 operation of law upon conviction, and the certificate of discharge
37 shall so state. Nothing in this section prohibits the use of an
38 offender's prior record for purposes of determining sentences for later

1 offenses as provided in this chapter. Nothing in this section affects
2 or prevents use of the offender's prior conviction in a later criminal
3 prosecution either as an element of an offense or for impeachment
4 purposes. A certificate of discharge is not based on a finding of
5 rehabilitation.

6 (5) Unless otherwise ordered by the sentencing court, a certificate
7 of discharge shall not terminate the offender's obligation to comply
8 with an order issued under chapter 10.99 RCW that excludes or prohibits
9 the offender from having contact with a specified person or coming
10 within a set distance of any specified location that was contained in
11 the judgment and sentence. An offender who violates such an order
12 after a certificate of discharge has been issued shall be subject to
13 prosecution according to the chapter under which the order was
14 originally issued.

15 (6) Upon release from custody, the offender may apply to the
16 department for counseling and help in adjusting to the community. This
17 voluntary help may be provided for up to one year following the release
18 from custody.

19 **Sec. 3.** RCW 9.94A.760 and 2003 c 379 s 14 are each amended to read
20 as follows:

21 (1) Whenever a person is convicted (~~(of a felony)~~) in superior
22 court, the court may order the payment of a legal financial obligation
23 as part of the sentence. The court must on either the judgment and
24 sentence or on a subsequent order to pay, designate the total amount of
25 a legal financial obligation and segregate this amount among the
26 separate assessments made for restitution, costs, fines, and other
27 assessments required by law. On the same order, the court is also to
28 set a sum that the offender is required to pay on a monthly basis
29 towards satisfying the legal financial obligation. If the court fails
30 to set the offender monthly payment amount, the department shall set
31 the amount if the department has active supervision of the offender,
32 otherwise the county clerk shall set the amount. Upon receipt of an
33 offender's monthly payment, restitution shall be paid prior to any
34 payments of other monetary obligations. After restitution is
35 satisfied, the county clerk shall distribute the payment proportionally
36 among all other fines, costs, and assessments imposed, unless otherwise
37 ordered by the court.

1 (2) If the court determines that the offender, at the time of
2 sentencing, has the means to pay for the cost of incarceration, the
3 court may require the offender to pay for the cost of incarceration at
4 a rate of fifty dollars per day of incarceration. Payment of other
5 court-ordered financial obligations, including all legal financial
6 obligations and costs of supervision shall take precedence over the
7 payment of the cost of incarceration ordered by the court. All funds
8 recovered from offenders for the cost of incarceration in the county
9 jail shall be remitted to the county and the costs of incarceration in
10 a prison shall be remitted to the department.

11 (3) The court may add to the judgment and sentence or subsequent
12 order to pay a statement that a notice of payroll deduction is to be
13 issued immediately. If the court chooses not to order the immediate
14 issuance of a notice of payroll deduction at sentencing, the court
15 shall add to the judgment and sentence or subsequent order to pay a
16 statement that a notice of payroll deduction may be issued or other
17 income-withholding action may be taken, without further notice to the
18 offender if a monthly court-ordered legal financial obligation payment
19 is not paid when due, and an amount equal to or greater than the amount
20 payable for one month is owed.

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

28 (4) Independent of the department or the county clerk, the party or
29 entity to whom the legal financial obligation is owed shall have the
30 authority to use any other remedies available to the party or entity to
31 collect the legal financial obligation. These remedies include
32 enforcement in the same manner as a judgment in a civil action by the
33 party or entity to whom the legal financial obligation is owed.
34 Restitution collected through civil enforcement must be paid through
35 the registry of the court and must be distributed proportionately
36 according to each victim's loss when there is more than one victim.
37 The judgment and sentence shall identify the party or entity to whom
38 restitution is owed so that the state, party, or entity may enforce the

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

35 (5) In order to assist the court in setting a monthly sum that the
36 offender must pay during the period of supervision, the offender is
37 required to report to the department for purposes of preparing a
38 recommendation to the court. When reporting, the offender is required,

1 under oath, to respond truthfully and honestly to all questions
2 concerning present, past, and future earning capabilities and the
3 location and nature of all property or financial assets. The offender
4 is further required to bring all documents requested by the department.

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

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

23 (b) Subsequent to any period of supervision, or if the department
24 is not authorized to supervise the offender in the community, the
25 county clerk may make a recommendation to the court that the offender's
26 monthly payment schedule be modified so as to reflect a change in
27 financial circumstances. If the county clerk sets the monthly payment
28 amount, or if the department set the monthly payment amount and the
29 department has subsequently turned the collection of the legal
30 financial obligation over to the county clerk, the clerk may modify the
31 monthly payment amount without the matter being returned to the court.
32 During the period of repayment, the county clerk may require the
33 offender to report to the clerk for the purpose of reviewing the
34 appropriateness of the collection schedule for the legal financial
35 obligation. During this reporting, the offender is required under oath
36 to respond truthfully and honestly to all questions concerning earning
37 capabilities and the location and nature of all property or financial

1 assets. The offender shall bring all documents requested by the county
2 clerk in order to prepare the collection schedule.

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

15 (9) The department or any obligee of the legal financial obligation
16 may seek a mandatory wage assignment for the purposes of obtaining
17 satisfaction for the legal financial obligation pursuant to RCW
18 9.94A.7701. Any party obtaining a wage assignment shall notify the
19 county clerk. The county clerks shall notify the department, or the
20 administrative office of the courts, whichever is providing the monthly
21 billing for the offender.

22 (10) The requirement that the offender pay a monthly sum towards a
23 legal financial obligation constitutes a condition or requirement of a
24 sentence and the offender is subject to the penalties for noncompliance
25 as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

26 (11)(a) Until January 1, 2004, the department shall mail
27 individualized monthly billings to the address known by the department
28 for each offender with an unsatisfied legal financial obligation.

29 (b) Beginning January 1, 2004, the administrative office of the
30 courts shall mail individualized monthly billings to the address known
31 by the office for each offender with an unsatisfied legal financial
32 obligation.

33 (c) The billing shall direct payments, other than outstanding cost
34 of supervision assessments under RCW 9.94A.780, parole assessments
35 under RCW 72.04A.120, and cost of probation assessments under RCW
36 9.95.214, to the county clerk, and cost of supervision, parole, or
37 probation assessments to the department.

1 (d) The county clerk shall provide the administrative office of the
2 courts with notice of payments by such offenders no less frequently
3 than weekly.

4 (e) The county clerks, the administrative office of the courts, and
5 the department shall maintain agreements to implement this subsection.

6 (12) The department shall arrange for the collection of unpaid
7 legal financial obligations during any period of supervision in the
8 community through the county clerk. The department shall either
9 collect unpaid legal financial obligations or arrange for collections
10 through another entity if the clerk does not assume responsibility or
11 is unable to continue to assume responsibility for collection pursuant
12 to subsection (4) of this section. The costs for collection services
13 shall be paid by the offender.

14 (13) The county clerk may access the records of the employment
15 security department for the purposes of verifying employment or income,
16 seeking any assignment of wages, or performing other duties necessary
17 to the collection of an offender's legal financial obligations.

18 (14) Nothing in this chapter makes the department, the state, the
19 counties, or any state or county employees, agents, or other persons
20 acting on their behalf liable under any circumstances for the payment
21 of these legal financial obligations or for the acts of any offender
22 who is no longer, or was not, subject to supervision by the department
23 for a term of community custody, community placement, or community
24 supervision, and who remains under the jurisdiction of the court for
25 payment of legal financial obligations.

26 **Sec. 4.** RCW 9.94A.772 and 2003 c 379 s 22 are each amended to read
27 as follows:

28 Notwithstanding any other provision of state law, monthly payment
29 or starting dates set by the court, the county clerk, or the department
30 before or after October 1, 2003, shall not be construed as a limitation
31 on the due date or amount of legal financial obligations, which may be
32 immediately collected by civil means and shall not be construed as a
33 limitation for purposes of credit reporting. Monthly payments and
34 commencement dates are to be construed to be applicable solely as a
35 limitation upon the deprivation of an offender's liberty for
36 nonpayment.

1 **Sec. 5.** RCW 50.13.020 and 1981 c 35 s 2 are each amended to read
2 as follows:

3 Any information or records concerning an individual or employing
4 unit obtained by the department of employment security pursuant to the
5 administration of this title or other programs for which the department
6 has responsibility shall be private and confidential, except as
7 otherwise provided in this chapter. This chapter does not create a
8 rule of evidence. Information or records may be released by the
9 department of employment security when the release is:

10 (1) Required by the federal government in connection with, or as a
11 condition of funding for, a program being administered by the
12 department; or

13 (2) Requested by a county clerk for the purposes of RCW 9.94A.760.

14 The provisions of RCW 50.13.060 (1) (a), (b) and (c) will not apply
15 to such release.

Passed by the Senate March 9, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 24, 2004.

Filed in Office of Secretary of State March 24, 2004.