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**SUBSTITUTE HOUSE BILL 1390**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Goodman, Holy, Jinkins, Kagi, Moscoso, Ormsby, and Pollet)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to legal financial obligations; amending RCW  
2 10.82.090, 3.50.100, 3.62.040, 35.20.220, 10.01.160, 10.01.170,  
3 10.01.180, 10.46.190, 10.64.015, 9.92.070, 10.73.160, 9.94A.6333,  
4 9.94A.760, 9.94B.040, 3.62.085, 36.18.020, and 43.43.7541; and  
5 reenacting and amending RCW 3.62.020.

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

7 **Sec. 1.** RCW 10.82.090 and 2011 c 106 s 2 are each amended to  
8 read as follows:

9 (1) Except as provided in subsection (2) of this section,  
10 (~~financial obligations~~) restitution imposed in a judgment shall  
11 bear interest from the date of the judgment until payment, at the  
12 rate applicable to civil judgments. As of the effective date of this  
13 section, no interest shall accrue on nonrestitution legal financial  
14 obligations. All nonrestitution interest retained by the court shall  
15 be split twenty-five percent to the state treasurer for deposit in  
16 the state general fund, twenty-five percent to the state treasurer  
17 for deposit in the judicial information system account as provided in  
18 RCW 2.68.020, twenty-five percent to the county current expense fund,  
19 and twenty-five percent to the county current expense fund to fund  
20 local courts.

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

5 (a) The court shall waive all interest on the portions of the  
6 legal financial obligations that are not restitution that accrued  
7 ~~((during the term of total confinement for the conviction giving rise  
8 to the financial obligations, provided the offender shows that the  
9 interest creates a hardship for the offender or his or her immediate  
10 family))~~ prior to the effective date of this section;

11 (b) The court may reduce interest on the restitution portion of  
12 the legal financial obligations only if the principal has been paid  
13 in full((÷

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

23 ~~(d) For purposes of (a) through (c) of this subsection, the court  
24 may reduce or waive interest on legal financial obligations only))~~  
25 and as an incentive for the offender to meet his or her other legal  
26 financial obligations((-));

27 (c) The court may grant the motion, establish a payment schedule,  
28 and retain jurisdiction over the offender for purposes of reviewing  
29 and revising the reduction or waiver of interest.

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

32 **Sec. 2.** RCW 3.50.100 and 2012 c 136 s 3 are each amended to read  
33 as follows:

34 (1) Costs in civil and criminal actions may be imposed as  
35 provided in district court. All fees, costs, fines, forfeitures and  
36 other money imposed by any municipal court for the violation of any  
37 municipal or town ordinances shall be collected by the court clerk  
38 and, together with any other noninterest revenues received by the  
39 clerk, shall be deposited with the city or town treasurer as a part

1 of the general fund of the city or town, or deposited in such other  
2 fund of the city or town, or deposited in such other funds as may be  
3 designated by the laws of the state of Washington.

4 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
5 treasurer shall remit monthly thirty-two percent of the noninterest  
6 money received under this section, other than for parking  
7 infractions, and certain costs to the state treasurer. "Certain  
8 costs" as used in this subsection, means those costs awarded to  
9 prevailing parties in civil actions under RCW 4.84.010 or 36.18.040,  
10 or those costs awarded against convicted defendants in criminal  
11 actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other  
12 similar statutes if such costs are specifically designated as costs  
13 by the court and are awarded for the specific reimbursement of costs  
14 incurred by the state, county, city, or town in the prosecution of  
15 the case, including the fees of defense counsel. Money remitted under  
16 this subsection to the state treasurer shall be deposited in the  
17 state general fund.

18 (3) The balance of the noninterest money received under this  
19 section shall be retained by the city and deposited as provided by  
20 law.

21 (4)(a) Except as provided in (b) of this subsection, penalties,  
22 finer, ((bail forfeitures,)) fees, and costs may accrue interest at  
23 the rate of twelve percent per annum, upon assignment to a collection  
24 agency. Interest may accrue only while the case is in collection  
25 status.

26 (b) As of the effective date of this section, penalties, fines,  
27 bail forfeitures, fees, and costs imposed against a defendant in a  
28 criminal proceeding shall not accrue interest.

29 (5) Interest retained by the court on penalties, fines, bail  
30 forfeitures, fees, and costs shall be split twenty-five percent to  
31 the state treasurer for deposit in the state general fund, twenty-  
32 five percent to the state treasurer for deposit in the judicial  
33 information system account as provided in RCW 2.68.020, twenty-five  
34 percent to the city general fund, and twenty-five percent to the city  
35 general fund to fund local courts.

36 **Sec. 3.** RCW 3.62.020 and 2012 c 262 s 1, 2012 c 136 s 4, and  
37 2012 c 134 s 6 are each reenacted and amended to read as follows:

38 (1) Except as provided in subsection (4) of this section, all  
39 costs, fees, fines, forfeitures and penalties assessed and collected

1 in whole or in part by district courts, except costs, fines,  
2 forfeitures and penalties assessed and collected, in whole or in  
3 part, because of the violation of city ordinances, shall be remitted  
4 by the clerk of the district court to the county treasurer at least  
5 monthly, together with a financial statement as required by the state  
6 auditor, noting the information necessary for crediting of such funds  
7 as required by law.

8 (2) Except as provided in RCW 9A.88.120, 10.99.080, 7.84.100(4),  
9 and this section, the county treasurer shall remit thirty-two percent  
10 of the noninterest money received under subsection (1) of this  
11 section except certain costs to the state treasurer. "Certain costs"  
12 as used in this subsection, means those costs awarded to prevailing  
13 parties in civil actions under RCW 4.84.010 or 36.18.040, or those  
14 costs awarded against convicted defendants in criminal actions under  
15 RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if  
16 such costs are specifically designated as costs by the court and are  
17 awarded for the specific reimbursement of costs incurred by the state  
18 or county in the prosecution of the case, including the fees of  
19 defense counsel. With the exception of funds to be transferred to the  
20 judicial stabilization trust account under RCW 3.62.060(2), money  
21 remitted under this subsection to the state treasurer shall be  
22 deposited in the state general fund.

23 (3) The balance of the noninterest money received by the county  
24 treasurer under subsection (1) of this section shall be deposited in  
25 the county current expense fund. Funds deposited under this  
26 subsection that are attributable to the county's portion of a  
27 surcharge imposed under RCW 3.62.060(2) must be used to support local  
28 trial court and court-related functions.

29 (4) Except as provided in RCW 7.84.100(4), all money collected  
30 for county parking infractions shall be remitted by the clerk of the  
31 district court at least monthly, with the information required under  
32 subsection (1) of this section, to the county treasurer for deposit  
33 in the county current expense fund.

34 (5)(a) Except as provided in (b) of this subsection, penalties,  
35 fees, ((bail forfeitures,)) fees, and costs may accrue interest at  
36 the rate of twelve percent per annum, upon assignment to a collection  
37 agency. Interest may accrue only while the case is in collection  
38 status.

1       (b) As of the effective date of this section, penalties, fines,  
2 bail forfeitures, fees, and costs imposed against a defendant in a  
3 criminal proceeding shall not accrue interest.

4       (6) Interest retained by the court on penalties, fines, bail  
5 forfeitures, fees, and costs shall be split twenty-five percent to  
6 the state treasurer for deposit in the state general fund, twenty-  
7 five percent to the state treasurer for deposit in the judicial  
8 information system account as provided in RCW 2.68.020, twenty-five  
9 percent to the county current expense fund, and twenty-five percent  
10 to the county current expense fund to fund local courts.

11       **Sec. 4.** RCW 3.62.040 and 2012 c 136 s 5 are each amended to read  
12 as follows:

13       (1) Except as provided in subsection (4) of this section, all  
14 costs, fines, forfeitures and penalties assessed and collected, in  
15 whole or in part, by district courts because of violations of city  
16 ordinances shall be remitted by the clerk of the district court at  
17 least monthly directly to the treasurer of the city wherein the  
18 violation occurred.

19       (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
20 treasurer shall remit monthly thirty-two percent of the noninterest  
21 money received under this section, other than for parking infractions  
22 and certain costs, to the state treasurer. "Certain costs" as used in  
23 this subsection, means those costs awarded to prevailing parties in  
24 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
25 against convicted defendants in criminal actions under RCW 10.01.160,  
26 10.46.190, or 36.18.040, or other similar statutes if such costs are  
27 specifically designated as costs by the court and are awarded for the  
28 specific reimbursement of costs incurred by the state, county, city,  
29 or town in the prosecution of the case, including the fees of defense  
30 counsel. Money remitted under this subsection to the state treasurer  
31 shall be deposited in the state general fund.

32       (3) The balance of the noninterest money received under this  
33 section shall be retained by the city and deposited as provided by  
34 law.

35       (4) All money collected for city parking infractions shall be  
36 remitted by the clerk of the district court at least monthly to the  
37 city treasurer for deposit in the city's general fund.

38       (5)(a) Except as provided in (b) of this subsection, penalties,  
39 fines, ((bail forfeitures,)) fees, and costs may accrue interest at

1 the rate of twelve percent per annum, upon assignment to a collection  
2 agency. Interest may accrue only while the case is in collection  
3 status.

4 (b) As of the effective date of this section, penalties, fines,  
5 bail forfeitures, fees, and costs imposed against a defendant in a  
6 criminal proceeding shall not accrue interest.

7 (6) Interest retained by the court on penalties, fines, bail  
8 forfeitures, fees, and costs shall be split twenty-five percent to  
9 the state treasurer for deposit in the state general fund, twenty-  
10 five percent to the state treasurer for deposit in the judicial  
11 information system account as provided in RCW 2.68.020, twenty-five  
12 percent to the city general fund, and twenty-five percent to the city  
13 general fund to fund local courts.

14 **Sec. 5.** RCW 35.20.220 and 2012 c 136 s 7 are each amended to  
15 read as follows:

16 (1) The chief clerk, under the supervision and direction of the  
17 court administrator of the municipal court, shall have the custody  
18 and care of the books, papers and records of the court. The chief  
19 clerk or a deputy shall be present during the session of the court  
20 and has the power to swear all witnesses and jurors, administer oaths  
21 and affidavits, and take acknowledgments. The chief clerk shall keep  
22 the records of the court and shall issue all process under his or her  
23 hand and the seal of the court. The chief clerk shall do and perform  
24 all things and have the same powers pertaining to the office as the  
25 clerks of the superior courts have in their office. He or she shall  
26 receive all fines, penalties, and fees of every kind and keep a full,  
27 accurate, and detailed account of the same. The chief clerk shall on  
28 each day pay into the city treasury all money received for the city  
29 during the day previous, with a detailed account of the same, and  
30 taking the treasurer's receipt therefor.

31 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
32 treasurer shall remit monthly thirty-two percent of the noninterest  
33 money received under this section, other than for parking infractions  
34 and certain costs to the state treasurer. "Certain costs" as used in  
35 this subsection, means those costs awarded to prevailing parties in  
36 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
37 against convicted defendants in criminal actions under RCW 10.01.160,  
38 10.46.190, or 36.18.040, or other similar statutes if such costs are  
39 specifically designated as costs by the court and are awarded for the

1 specific reimbursement of costs incurred by the state, county, city,  
2 or town in the prosecution of the case, including the fees of defense  
3 counsel. Money remitted under this subsection to the state treasurer  
4 shall be deposited in the state general fund.

5 (3) The balance of the noninterest money received under this  
6 section shall be retained by the city and deposited as provided by  
7 law.

8 (4)(a) Except as provided in (b) of this subsection, penalties,  
9 finer, ((bail forfeitures,)) fees, and costs may accrue interest at  
10 the rate of twelve percent per annum, upon assignment to a collection  
11 agency. Interest may accrue only while the case is in collection  
12 status.

13 (b) As of the effective date of this section, penalties, fines,  
14 bail forfeitures, fees, and costs imposed against a defendant in a  
15 criminal proceeding shall not accrue interest.

16 (5) Interest retained by the court on penalties, fines, bail  
17 forfeitures, fees, and costs shall be split twenty-five percent to  
18 the state treasurer for deposit in the state general fund, twenty-  
19 five percent to the state treasurer for deposit in the judicial  
20 information system account as provided in RCW 2.68.020, twenty-five  
21 percent to the city general fund, and twenty-five percent to the city  
22 general fund to fund local courts.

23 **Sec. 6.** RCW 10.01.160 and 2010 c 54 s 1 are each amended to read  
24 as follows:

25 (1) Except as provided in subsection (3) of this section, the  
26 court may require a defendant to pay costs. Costs may be imposed only  
27 upon a convicted defendant, except for costs imposed upon a  
28 defendant's entry into a deferred prosecution program, costs imposed  
29 upon a defendant for pretrial supervision, or costs imposed upon a  
30 defendant for preparing and serving a warrant for failure to appear.

31 (2) Costs shall be limited to expenses specially incurred by the  
32 state in prosecuting the defendant or in administering the deferred  
33 prosecution program under chapter 10.05 RCW or pretrial supervision.  
34 They cannot include expenses inherent in providing a constitutionally  
35 guaranteed jury trial or expenditures in connection with the  
36 maintenance and operation of government agencies that must be made by  
37 the public irrespective of specific violations of law. Expenses  
38 incurred for serving of warrants for failure to appear and jury fees  
39 under RCW 10.46.190 may be included in costs the court may require a

1 defendant to pay. Costs for administering a deferred prosecution may  
2 not exceed two hundred fifty dollars. Costs for administering a  
3 pretrial supervision may not exceed one hundred fifty dollars. Costs  
4 for preparing and serving a warrant for failure to appear may not  
5 exceed one hundred dollars. Costs of incarceration imposed on a  
6 defendant convicted of a misdemeanor or a gross misdemeanor may not  
7 exceed the actual cost of incarceration. In no case may the court  
8 require the offender to pay more than one hundred dollars per day for  
9 the cost of incarceration. Payment of other court-ordered financial  
10 obligations, including all legal financial obligations and costs of  
11 supervision take precedence over the payment of the cost of  
12 incarceration ordered by the court. All funds received from  
13 defendants for the cost of incarceration in the county or city jail  
14 must be remitted for criminal justice purposes to the county or city  
15 that is responsible for the defendant's jail costs. Costs imposed  
16 constitute a judgment against a defendant and survive a dismissal of  
17 the underlying action against the defendant. However, if the  
18 defendant is acquitted on the underlying action, the costs for  
19 preparing and serving a warrant for failure to appear do not survive  
20 the acquittal, and the judgment that such costs would otherwise  
21 constitute shall be vacated.

22 (3) The court shall not order a defendant to pay costs (~~(unless)~~)  
23 if the defendant ((is or will be able to pay them)) at the time of  
24 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
25 (c). In determining the amount and method of payment of costs for  
26 defendants who are not indigent as defined in RCW 10.101.010(3) (a)  
27 through (c), the court shall take account of the financial resources  
28 of the defendant and the nature of the burden that payment of costs  
29 will impose.

30 (4) A defendant who has been ordered to pay costs and who is not  
31 in (~~(contumacious)~~) willful default in the payment thereof may at any  
32 time after release from total confinement petition the sentencing  
33 court for remission of the payment of costs or of any unpaid portion  
34 thereof. If it appears to the satisfaction of the court that payment  
35 of the amount due will impose manifest hardship on the defendant or  
36 the defendant's immediate family, the court may remit all or part of  
37 the amount due in costs, (~~(or)~~) modify the method of payment under  
38 RCW 10.01.170, or with the defendant's consent convert the unpaid  
39 costs to community restitution hours at the rate of no less than the  
40 state minimum wage established in RCW 49.46.020 for each hour of



1 community restitution. Manifest hardship exists where the defendant  
2 is indigent as defined in RCW 10.101.010(3) (a) through (c) and the  
3 defendant's indigency is unlikely to end in the future.

4 (5) Except for direct costs relating to evaluating and reporting  
5 to the court, prosecutor, or defense counsel regarding a defendant's  
6 competency to stand trial as provided in RCW 10.77.060, this section  
7 shall not apply to costs related to medical or mental health  
8 treatment or services a defendant receives while in custody of the  
9 secretary of the department of social and health services or other  
10 governmental units. This section shall not prevent the secretary of  
11 the department of social and health services or other governmental  
12 units from imposing liability and seeking reimbursement from a  
13 defendant committed to an appropriate facility as provided in RCW  
14 10.77.084 while criminal proceedings are stayed. This section shall  
15 also not prevent governmental units from imposing liability on  
16 defendants for costs related to providing medical or mental health  
17 treatment while the defendant is in the governmental unit's custody.  
18 Medical or mental health treatment and services a defendant receives  
19 at a state hospital or other facility are not a cost of prosecution  
20 and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter  
21 43.20B RCW, and any other applicable statute.

22 **Sec. 7.** RCW 10.01.170 and 1975-'76 2nd ex.s. c 96 s 2 are each  
23 amended to read as follows:

24 (1) When a defendant is sentenced to pay ((a)) fines, penalties,  
25 assessments, fees, restitution, or costs, the court may grant  
26 permission for payment to be made within a specified period of time  
27 or in specified installments. If the court finds that the defendant  
28 is indigent as defined in RCW 10.101.010(3) (a) through (c), the  
29 court shall grant permission for payment to be made within a  
30 specified period of time or in specified installments. If no such  
31 permission is included in the sentence the fine or costs shall be  
32 payable forthwith.

33 (2) An offender's monthly payment shall be applied to the  
34 principal on restitution obligations in all cases within a  
35 jurisdiction prior to payment of any other monetary obligations.  
36 After restitution is satisfied, payment shall be distributed  
37 proportionally among all other fines, costs other than costs of  
38 incarceration, fees, penalties, and assessments imposed, unless  
39 otherwise ordered by the court. Costs of incarceration shall be paid

1 after all other fines, costs, fees, penalties, and assessments are  
2 satisfied. After the principal on all legal financial obligations is  
3 satisfied, payment shall be distributed to interest.

4 **Sec. 8.** RCW 10.01.180 and 2010 c 8 s 1006 are each amended to  
5 read as follows:

6 (1) A defendant sentenced to pay ((a)) any fine, penalty,  
7 assessment, fee, or costs who willfully defaults in the payment  
8 thereof or of any installment is in contempt of court as provided in  
9 chapter 7.21 RCW. The court may issue a warrant of arrest for his or  
10 her appearance.

11 (2) When ((a)) any fine, penalty, assessment, fee, or assessment  
12 of costs is imposed on a corporation or unincorporated association,  
13 it is the duty of the person authorized to make disbursement from the  
14 assets of the corporation or association to pay the ((fine or costs))  
15 obligation from those assets, and his or her failure to do so may be  
16 held to be contempt.

17 (3)(a) The court shall not sanction a defendant for contempt  
18 based on failure to pay fines, penalties, assessments, fees, or costs  
19 unless the court finds, after a hearing and on the record, that the  
20 failure to pay is willful. A failure to pay is willful if the  
21 defendant has the current ability to pay but refuses to do so.

22 (b) In determining whether the defendant has the current ability  
23 to pay, the court shall inquire into and consider: (i) The  
24 defendant's income and assets; (ii) the defendant's basic living  
25 costs as defined by RCW 10.101.010 and other liabilities including  
26 child support and other legal financial obligations; and (iii) the  
27 defendant's bona fide efforts to acquire additional resources. A  
28 defendant who is indigent as defined by RCW 10.101.010(3) (a) through  
29 (c) is presumed to lack the current ability to pay.

30 (c) If the court determines that the defendant is homeless or a  
31 person who is mentally ill, as defined in RCW 71.24.025, failure to  
32 pay a legal financial obligation is not willful contempt and shall  
33 not subject the defendant to penalties.

34 (4) If a term of imprisonment for contempt for nonpayment of  
35 ((a)) any fine, penalty, assessment, fee, or costs is ordered, the  
36 term of imprisonment shall be set forth in the commitment order, and  
37 shall not exceed one day for each twenty-five dollars of the ((fine  
38 or costs)) amount ordered, thirty days if the ((fine or assessment))  
39 amount ordered of costs was imposed upon conviction of a violation or

1 misdemeanor, or one year in any other case, whichever is the shorter  
2 period. A person committed for nonpayment of ((a)) any fine, penalty,  
3 assessment, fee, or costs shall be given credit toward payment for  
4 each day of imprisonment at the rate specified in the commitment  
5 order.

6 ((+4)) (5) If it appears to the satisfaction of the court that  
7 the default in the payment of ((a)) any fine, penalty, assessment,  
8 fee, or costs is not willful contempt, the court may, and if the  
9 defendant is indigent as defined in RCW 10.101.010(3) (a) through  
10 (c), the court shall enter an order: (a) Allowing the defendant  
11 additional time for payment((7)); (b) reducing the amount thereof or  
12 of each installment ((e)); (c) revoking the fine, penalty,  
13 assessment, fee, or costs or the unpaid portion thereof in whole or  
14 in part; or (d) with the defendant's consent converting the unpaid  
15 fine, penalty, assessment, fee, or costs to community restitution  
16 hours at the rate of no less than the state minimum wage established  
17 in RCW 49.46.020 for each hour of community restitution. The crime  
18 victim penalty assessment under RCW 7.68.035 may not be reduced,  
19 revoked, or converted to community restitution hours.

20 ((+5)) (6) A default in the payment of ((a)) any fine, penalty,  
21 assessment, fee, or costs or any installment thereof may be collected  
22 by any means authorized by law for the enforcement of a judgment. The  
23 levy of execution for the collection of ((a)) any fine, penalty,  
24 assessment, fee, or costs shall not discharge a defendant committed  
25 to imprisonment for contempt until the amount ((of the fine or  
26 costs)) has actually been collected.

27 **Sec. 9.** RCW 10.46.190 and 2005 c 457 s 12 are each amended to  
28 read as follows:

29 Every person convicted of a crime or held to bail to keep the  
30 peace ((shall)) may be liable to all the costs of the proceedings  
31 against him or her, including, when tried by a jury in the superior  
32 court or before a committing magistrate, a jury fee as provided for  
33 in civil actions for which judgment shall be rendered and collected.  
34 The court shall not order a defendant to pay costs, as described in  
35 RCW 10.01.160, if the court finds that the person at the time of  
36 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
37 (c). The jury fee, when collected for a case tried by the superior  
38 court, shall be paid to the clerk and applied as the jury fee in  
39 civil cases is applied.

1       **Sec. 10.** RCW 10.64.015 and Code 1881 s 1104 are each amended to  
2 read as follows:

3       When the defendant is found guilty, the court shall render  
4 judgment accordingly, and the defendant (~~shall~~) may be liable for  
5 all costs, unless the court or jury trying the cause expressly find  
6 otherwise. The court shall not order a defendant to pay costs, as  
7 described in RCW 10.01.160, if the court finds that the person at the  
8 time of sentencing is indigent as defined in RCW 10.101.010(3) (a)  
9 through (c).

10       **Sec. 11.** RCW 9.92.070 and 1987 c 3 s 4 are each amended to read  
11 as follows:

12       Hereafter whenever any judge of any superior court or a district  
13 or municipal judge shall sentence any person to pay any fines,  
14 penalties, assessments, fees, and costs, the judge may, in the  
15 judge's discretion, provide that such fines, penalties, assessments,  
16 fees, and costs may be paid in certain designated installments, or  
17 within certain designated period or periods(~~;~~~~and~~). If the court  
18 finds that the defendant is indigent as defined in RCW 10.101.010(3)  
19 (a) through (c), the court shall allow for payment in certain  
20 designated installments or within certain designated periods. If such  
21 fines, penalties, assessments, fees, and costs shall be paid by the  
22 defendant in accordance with such order no commitment or imprisonment  
23 of the defendant shall be made for failure to pay such fine or costs.  
24 PROVIDED, that the provisions of this section shall not apply to any  
25 sentence given for the violation of any of the liquor laws of this  
26 state.

27       **Sec. 12.** RCW 10.73.160 and 1995 c 275 s 3 are each amended to  
28 read as follows:

29       (1) Except as provided in subsection (4) of this section, the  
30 court of appeals, supreme court, and superior courts may require an  
31 adult or a juvenile convicted of an offense or the parents or another  
32 person legally obligated to support a juvenile offender to pay  
33 appellate costs.

34       (2) Appellate costs are limited to expenses specifically incurred  
35 by the state in prosecuting or defending an appeal or collateral  
36 attack from a criminal conviction or sentence or a juvenile offender  
37 conviction or disposition. Appellate costs shall not include  
38 expenditures to maintain and operate government agencies that must be

1 made irrespective of specific violations of the law. Expenses  
2 incurred for producing a verbatim report of proceedings and clerk's  
3 papers may be included in costs the court may require a convicted  
4 defendant or juvenile offender to pay.

5 (3) Costs, including recoupment of fees for court-appointed  
6 counsel, shall be requested in accordance with the procedures  
7 contained in Title 14 of the rules of appellate procedure and in  
8 Title 9 of the rules for appeal of decisions of courts of limited  
9 jurisdiction. An award of costs shall become part of the trial court  
10 judgment and sentence. An award of costs in juvenile cases shall also  
11 become part of any order previously entered in the trial court  
12 pursuant to RCW 13.40.145.

13 (4) The court shall not order a defendant to pay appellate costs  
14 if the defendant is indigent as defined in RCW 10.101.010(3) (a)  
15 through (c) at the time the request for appellate costs is made.

16 (5) A defendant or juvenile offender who has been sentenced to  
17 pay costs and who is not in (~~contumacious~~) willful default in the  
18 payment may at any time after release from total confinement petition  
19 the court that sentenced the defendant or juvenile offender for  
20 remission of the payment of costs or of any unpaid portion. If it  
21 appears to the satisfaction of the sentencing court that payment of  
22 the amount due will impose manifest hardship on the defendant, the  
23 defendant's immediate family, or the juvenile offender, the  
24 sentencing court may remit all or part of the amount due in costs,  
25 (~~or~~) modify the method of payment under RCW 10.01.170, or with the  
26 defendant's or juvenile offender's consent convert the unpaid costs  
27 to community restitution hours at the rate of no less than the state  
28 minimum wage established in RCW 49.46.020 for each hour of community  
29 restitution. Manifest hardship exists where the defendant or juvenile  
30 offender is indigent as defined in RCW 10.101.010(3) (a) through (c)  
31 and the indigency is unlikely to end in the future.

32 (~~(5)~~) (6) The parents or another person legally obligated to  
33 support a juvenile offender who has been ordered to pay appellate  
34 costs pursuant to RCW 13.40.145 and who is not in (~~contumacious~~)  
35 willful default in the payment may at any time petition the court  
36 that sentenced the juvenile offender for remission of the payment of  
37 costs or of any unpaid portion. If it appears to the satisfaction of  
38 the sentencing court that payment of the amount due will impose  
39 manifest hardship on the parents or another person legally obligated  
40 to support a juvenile offender or on their immediate families, the

1 sentencing court may remit all or part of the amount due in costs, or  
2 may modify the method of payment.

3 **Sec. 13.** RCW 9.94A.6333 and 2008 c 231 s 19 are each amended to  
4 read as follows:

5 (1) If an offender violates any condition or requirement of a  
6 sentence, and the offender is not being supervised by the department,  
7 the court may modify its order of judgment and sentence and impose  
8 further punishment in accordance with this section.

9 (2) If an offender fails to comply with any of the nonfinancial  
10 conditions or requirements of a sentence the following provisions  
11 apply:

12 (a) The court, upon the motion of the state, or upon its own  
13 motion, shall require the offender to show cause why the offender  
14 should not be punished for the noncompliance. The court may issue a  
15 summons or a warrant of arrest for the offender's appearance;

16 (b) The state has the burden of showing noncompliance by a  
17 preponderance of the evidence;

18 (c) If the court finds that a violation has been proved, it may  
19 impose the sanctions specified in RCW 9.94A.633(1). Alternatively,  
20 the court may:

21 (i) Convert a term of partial confinement to total confinement;  
22 or

23 (ii) Convert community restitution obligation to total or partial  
24 confinement; (~~or~~

25 ~~(iii) Convert monetary obligations, except restitution and the~~  
26 ~~crime victim penalty assessment, to community restitution hours at~~  
27 ~~the rate of the state minimum wage as established in RCW 49.46.020~~  
28 ~~for each hour of community restitution;))~~

29 (d) If the court finds that the violation was not willful, the  
30 court may modify its previous order regarding (~~payment of legal~~  
31 ~~financial obligations and regarding~~) community restitution  
32 obligations; and

33 (e) If the violation involves a failure to undergo or comply with  
34 a mental health status evaluation and/or outpatient mental health  
35 treatment, the court shall seek a recommendation from the treatment  
36 provider or proposed treatment provider. Enforcement of orders  
37 concerning outpatient mental health treatment must reflect the  
38 availability of treatment and must pursue the least restrictive means  
39 of promoting participation in treatment. If the offender's failure to

1 receive care essential for health and safety presents a risk of  
2 serious physical harm or probable harmful consequences, the civil  
3 detention and commitment procedures of chapter 71.05 RCW shall be  
4 considered in preference to incarceration in a local or state  
5 correctional facility.

6 (3) If an offender fails to pay legal financial obligations as a  
7 requirement of a sentence the following provisions apply:

8 (a) The court, upon the motion of the state, or upon its own  
9 motion, shall require the offender to show cause why the offender  
10 should not be punished for the noncompliance. The court may issue a  
11 summons or a warrant of arrest for the offender's appearance;

12 (b) The state has the burden of showing noncompliance by a  
13 preponderance of the evidence;

14 (c) The court may not sanction the offender for failure to pay  
15 legal financial obligations unless the court finds, after a hearing  
16 and on the record, that the failure to pay is willful. A failure to  
17 pay is willful if the offender has the current ability to pay but  
18 refuses to do so. In determining whether the offender has the current  
19 ability to pay, the court shall inquire into and consider: (i) The  
20 offender's income and assets; (ii) the offender's basic living costs  
21 as defined by RCW 10.101.010 and other liabilities including child  
22 support and other legal financial obligations; and (iii) the  
23 offender's bona fide efforts to acquire additional resources. An  
24 offender who is indigent as defined by RCW 10.101.010(3) (a) through  
25 (c) is presumed to lack the current ability to pay;

26 (d) If the court determines that the offender is homeless or a  
27 person who is mentally ill, as defined in RCW 71.24.025, failure to  
28 pay a legal financial obligation is not willful noncompliance and  
29 shall not subject the offender to penalties;

30 (e) If the court finds that a failure to pay is willful  
31 noncompliance, it may impose the sanctions specified in RCW  
32 9.94A.633(1); and

33 (f) If the court finds that the violation was not willful, the  
34 court may, and if the court finds that the defendant is indigent as  
35 defined in RCW 10.101.010(3) (a) through (c), the court shall modify  
36 the terms of payment of the legal financial obligations, reduce or  
37 waive nonrestitution legal financial obligations, or with the  
38 defendant's consent convert nonrestitution legal financial  
39 obligations to community restitution hours at the rate of no less  
40 than the state minimum wage established in RCW 49.46.020 for each

1 hour of community restitution. The crime victim penalty assessment  
2 under RCW 7.68.035 may not be reduced, waived, or converted to  
3 community restitution hours.

4 (4) Any time served in confinement awaiting a hearing on  
5 noncompliance shall be credited against any confinement ordered by  
6 the court.

7 ~~((4))~~ (5) Nothing in this section prohibits the filing of  
8 escape charges if appropriate.

9 **Sec. 14.** RCW 9.94A.760 and 2011 c 106 s 3 are each amended to  
10 read as follows:

11 (1) Whenever a person is convicted in superior court, the court  
12 may order the payment of a legal financial obligation as part of the  
13 sentence. The court may not order an offender to pay costs as  
14 described in RCW 10.01.160 if the court finds that the offender at  
15 the time of sentencing is indigent as defined in RCW 10.101.010(3)  
16 (a) through (c). An offender being indigent as defined in RCW  
17 10.101.010(3) (a) through (c) is not grounds for failing to impose  
18 restitution or the crime victim penalty assessment under RCW  
19 7.68.035. The court must on either the judgment and sentence or on a  
20 subsequent order to pay, designate the total amount of a legal  
21 financial obligation and segregate this amount among the separate  
22 assessments made for restitution, costs, fines, and other assessments  
23 required by law. On the same order, the court is also to set a sum  
24 that the offender is required to pay on a monthly basis towards  
25 satisfying the legal financial obligation. If the court fails to set  
26 the offender monthly payment amount, the department shall set the  
27 amount if the department has active supervision of the offender,  
28 otherwise the county clerk shall set the amount. Upon receipt of an  
29 offender's monthly payment, ~~((restitution shall be paid prior to any~~  
30 ~~payments of other monetary obligations. After restitution is~~  
31 ~~satisfied,))~~ the county clerk shall distribute the payment  
32 ~~((proportionally among all other fines, costs, and assessments~~  
33 ~~imposed))~~ in accordance with subsection (2) of this section, unless  
34 otherwise ordered by the court.

35 (2) An offender's monthly payment shall be applied to the  
36 principal on restitution obligations in all cases within a  
37 jurisdiction prior to payment of any other monetary obligations.  
38 After restitution is satisfied, payment shall be distributed  
39 proportionally among all other fines, costs other than costs of



1 incarceration, fees, penalties, and assessments imposed, unless  
2 otherwise ordered by the court. Costs of incarceration shall be paid  
3 after all other fines, costs, fees, penalties, and assessments are  
4 satisfied. After the principal on all legal financial obligations is  
5 satisfied, payment shall be distributed to interest.

6 (3) If the court determines that the offender, at the time of  
7 sentencing, has the means to pay for the cost of incarceration, the  
8 court may require the offender to pay for the cost of incarceration  
9 ~~((at)).~~ The court shall not order the offender to pay the cost of  
10 incarceration if the court finds that the offender at the time of  
11 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
12 (c). Costs of incarceration ordered by the court shall not exceed a  
13 rate of fifty dollars per day of incarceration, if incarcerated in a  
14 prison, or the ~~((court may require the offender to pay the))~~ actual  
15 cost of incarceration per day of incarceration, if incarcerated in a  
16 county jail. In no case may the court require the offender to pay  
17 more than one hundred dollars per day for the cost of incarceration.  
18 Payment of other court-ordered financial obligations, including all  
19 legal financial obligations and costs of supervision shall take  
20 precedence over the payment of the cost of incarceration ordered by  
21 the court. All funds recovered from offenders for the cost of  
22 incarceration in the county jail shall be remitted to the county and  
23 the costs of incarceration in a prison shall be remitted to the  
24 department.

25 ~~((+3+))~~ (4) The court may add to the judgment and sentence or  
26 subsequent order to pay a statement that a notice of payroll  
27 deduction is to be issued immediately. If the court chooses not to  
28 order the immediate issuance of a notice of payroll deduction at  
29 sentencing, the court shall add to the judgment and sentence or  
30 subsequent order to pay a statement that a notice of payroll  
31 deduction may be issued or other income-withholding action may be  
32 taken, without further notice to the offender if a monthly court-  
33 ordered legal financial obligation payment is not paid when due, and  
34 an amount equal to or greater than the amount payable for one month  
35 is owed.

36 If a judgment and sentence or subsequent order to pay does not  
37 include the statement that a notice of payroll deduction may be  
38 issued or other income-withholding action may be taken if a monthly  
39 legal financial obligation payment is past due, the department or the  
40 county clerk may serve a notice on the offender stating such

1 requirements and authorizations. Service shall be by personal service  
2 or any form of mail requiring a return receipt.

3 ~~((4))~~ (5) Independent of the department or the county clerk,  
4 the party or entity to whom the legal financial obligation is owed  
5 shall have the authority to use any other remedies available to the  
6 party or entity to collect the legal financial obligation. These  
7 remedies include enforcement in the same manner as a judgment in a  
8 civil action by the party or entity to whom the legal financial  
9 obligation is owed. Restitution collected through civil enforcement  
10 must be paid through the registry of the court and must be  
11 distributed proportionately according to each victim's loss when  
12 there is more than one victim. The judgment and sentence shall  
13 identify the party or entity to whom restitution is owed so that the  
14 state, party, or entity may enforce the judgment. If restitution is  
15 ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of  
16 rape of a child or a victim's child born from the rape, the  
17 Washington state child support registry shall be identified as the  
18 party to whom payments must be made. Restitution obligations arising  
19 from the rape of a child in the first, second, or third degree that  
20 result in the pregnancy of the victim may be enforced for the time  
21 periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other  
22 legal financial obligations for an offense committed prior to July 1,  
23 2000, may be enforced at any time during the ten-year period  
24 following the offender's release from total confinement or within ten  
25 years of entry of the judgment and sentence, whichever period ends  
26 later. Prior to the expiration of the initial ten-year period, the  
27 superior court may extend the criminal judgment an additional ten  
28 years for payment of legal financial obligations including crime  
29 victims' assessments. All other legal financial obligations for an  
30 offense committed on or after July 1, 2000, may be enforced at any  
31 time the offender remains under the court's jurisdiction. For an  
32 offense committed on or after July 1, 2000, the court shall retain  
33 jurisdiction over the offender, for purposes of the offender's  
34 compliance with payment of the legal financial obligations, until the  
35 obligation is completely satisfied, regardless of the statutory  
36 maximum for the crime. The department may only supervise the  
37 offender's compliance with payment of the legal financial obligations  
38 during any period in which the department is authorized to supervise  
39 the offender in the community under RCW 9.94A.728, 9.94A.501, or in  
40 which the offender is confined in a state correctional institution or

1 a correctional facility pursuant to a transfer agreement with the  
2 department, and the department shall supervise the offender's  
3 compliance during any such period. The department is not responsible  
4 for supervision of the offender during any subsequent period of time  
5 the offender remains under the court's jurisdiction. The county clerk  
6 is authorized to collect unpaid legal financial obligations at any  
7 time the offender remains under the jurisdiction of the court for  
8 purposes of his or her legal financial obligations.

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

18 ~~((+6))~~ (7) After completing the investigation, the department  
19 shall make a report to the court on the amount of the monthly payment  
20 that the offender should be required to make towards a satisfied  
21 legal financial obligation.

22 ~~((+7))~~ (8)(a) During the period of supervision, the department  
23 may make a recommendation to the court that the offender's monthly  
24 payment schedule be modified so as to reflect a change in financial  
25 circumstances. If the department sets the monthly payment amount, the  
26 department may modify the monthly payment amount without the matter  
27 being returned to the court. During the period of supervision, the  
28 department may require the offender to report to the department for  
29 the purposes of reviewing the appropriateness of the collection  
30 schedule for the legal financial obligation. During this reporting,  
31 the offender is required under oath to respond truthfully and  
32 honestly to all questions concerning earning capabilities and the  
33 location and nature of all property or financial assets. The offender  
34 shall bring all documents requested by the department in order to  
35 prepare the collection schedule.

36 (b) Subsequent to any period of supervision, or if the department  
37 is not authorized to supervise the offender in the community, the  
38 county clerk may make a recommendation to the court that the  
39 offender's monthly payment schedule be modified so as to reflect a  
40 change in financial circumstances. If the county clerk sets the

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

14 ~~((+8))~~ (9) After the judgment and sentence or payment order is  
15 entered, the department is authorized, for any period of supervision,  
16 to collect the legal financial obligation from the offender.  
17 Subsequent to any period of supervision or, if the department is not  
18 authorized to supervise the offender in the community, the county  
19 clerk is authorized to collect unpaid legal financial obligations  
20 from the offender. Any amount collected by the department shall be  
21 remitted daily to the county clerk for the purpose of disbursements.  
22 The department and the county clerks are authorized, but not  
23 required, to accept credit cards as payment for a legal financial  
24 obligation, and any costs incurred related to accepting credit card  
25 payments shall be the responsibility of the offender.

26 ~~((+9))~~ (10) The department or any obligee of the legal financial  
27 obligation may seek a mandatory wage assignment for the purposes of  
28 obtaining satisfaction for the legal financial obligation pursuant to  
29 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify  
30 the county clerk. The county clerks shall notify the department, or  
31 the administrative office of the courts, whichever is providing the  
32 monthly billing for the offender.

33 ~~((+10))~~ (11) The requirement that the offender pay a monthly sum  
34 towards a legal financial obligation constitutes a condition or  
35 requirement of a sentence and the offender is subject to the  
36 penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737,  
37 or 9.94A.740. If the court determines that the offender is homeless  
38 or a person who is mentally ill, as defined in RCW 71.24.025, failure  
39 to pay a legal financial obligation is not willful noncompliance and  
40 shall not subject the offender to penalties.

1       (~~(11)~~) (12)(a) The administrative office of the courts shall  
2 mail individualized periodic billings to the address known by the  
3 office for each offender with an unsatisfied legal financial  
4 obligation.

5       (b) The billing shall direct payments, other than outstanding  
6 cost of supervision assessments under RCW 9.94A.780, parole  
7 assessments under RCW 72.04A.120, and cost of probation assessments  
8 under RCW 9.95.214, to the county clerk, and cost of supervision,  
9 parole, or probation assessments to the department.

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

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

16       (~~(12)~~) (13) The department shall arrange for the collection of  
17 unpaid legal financial obligations during any period of supervision  
18 in the community through the county clerk. The department shall  
19 either collect unpaid legal financial obligations or arrange for  
20 collections through another entity if the clerk does not assume  
21 responsibility or is unable to continue to assume responsibility for  
22 collection pursuant to subsection (~~(4)~~) (5) of this section. The  
23 costs for collection services shall be paid by the offender.

24       (~~(13)~~) (14) The county clerk may access the records of the  
25 employment security department for the purposes of verifying  
26 employment or income, seeking any assignment of wages, or performing  
27 other duties necessary to the collection of an offender's legal  
28 financial obligations.

29       (~~(14)~~) (15) Nothing in this chapter makes the department, the  
30 state, the counties, or any state or county employees, agents, or  
31 other persons acting on their behalf liable under any circumstances  
32 for the payment of these legal financial obligations or for the acts  
33 of any offender who is no longer, or was not, subject to supervision  
34 by the department for a term of community custody, and who remains  
35 under the jurisdiction of the court for payment of legal financial  
36 obligations.

37       **Sec. 15.** RCW 9.94B.040 and 2002 c 175 s 8 are each amended to  
38 read as follows:

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

4 (2) In cases where conditions from a second or later sentence of  
5 community supervision begin prior to the term of the second or later  
6 sentence, the court shall treat a violation of such conditions as a  
7 violation of the sentence of community supervision currently being  
8 served.

9 (3) If an offender fails to comply with any of the nonfinancial  
10 requirements or conditions of a sentence the following provisions  
11 apply:

12 (a)(i) Following the violation, if the offender and the  
13 department make a stipulated agreement, the department may impose  
14 sanctions such as work release, home detention with electronic  
15 monitoring, work crew, community restitution, inpatient treatment,  
16 daily reporting, curfew, educational or counseling sessions,  
17 supervision enhanced through electronic monitoring, jail time, or  
18 other sanctions available in the community.

19 (ii) Within seventy-two hours of signing the stipulated  
20 agreement, the department shall submit a report to the court and the  
21 prosecuting attorney outlining the violation or violations, and  
22 sanctions imposed. Within fifteen days of receipt of the report, if  
23 the court is not satisfied with the sanctions, the court may schedule  
24 a hearing and may modify the department's sanctions. If this occurs,  
25 the offender may withdraw from the stipulated agreement.

26 (iii) If the offender fails to comply with the sanction  
27 administratively imposed by the department, the court may take action  
28 regarding the original noncompliance. Offender failure to comply with  
29 the sanction administratively imposed by the department may be  
30 considered an additional violation;

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

37 (c) The state has the burden of showing noncompliance by a  
38 preponderance of the evidence. If the court finds that the violation  
39 has occurred, it may order the offender to be confined for a period  
40 not to exceed sixty days for each violation, and may (i) convert a

1 term of partial confinement to total confinement, (ii) convert  
2 community restitution obligation to total or partial confinement, or  
3 ~~(iii) ((convert monetary obligations, except restitution and the~~  
4 ~~crime victim penalty assessment, to community restitution hours at~~  
5 ~~the rate of the state minimum wage as established in RCW 49.46.020~~  
6 ~~for each hour of community restitution, or (iv))~~) order one or more  
7 of the penalties authorized in (a)(i) of this subsection. Any time  
8 served in confinement awaiting a hearing on noncompliance shall be  
9 credited against any confinement order by the court;

10 (d) If the court finds that the violation was not willful, the  
11 court may modify its previous order regarding ~~((payment of legal~~  
12 ~~financial obligations and regarding))~~ community restitution  
13 obligations; and

14 (e) If the violation involves a failure to undergo or comply with  
15 mental status evaluation and/or outpatient mental health treatment,  
16 the community corrections officer shall consult with the treatment  
17 provider or proposed treatment provider. Enforcement of orders  
18 concerning outpatient mental health treatment must reflect the  
19 availability of treatment and must pursue the least restrictive means  
20 of promoting participation in treatment. If the offender's failure to  
21 receive care essential for health and safety presents a risk of  
22 serious physical harm or probable harmful consequences, the civil  
23 detention and commitment procedures of chapter 71.05 RCW shall be  
24 considered in preference to incarceration in a local or state  
25 correctional facility.

26 (4) If the violation involves failure to pay legal financial  
27 obligations, the following provisions apply:

28 (a) The department and the offender may enter into a stipulated  
29 agreement that the failure to pay was willful noncompliance,  
30 according to the provisions and requirements of subsection (3)(a) of  
31 this section;

32 (b) In the absence of a stipulated agreement, or where the court  
33 is not satisfied with the department's sanctions as provided in a  
34 stipulated agreement under (a) of this subsection, the court, upon  
35 the motion of the state, or upon its own motion, shall require the  
36 offender to show cause why the offender should not be punished for  
37 the noncompliance. The court may issue a summons or a warrant of  
38 arrest for the offender's appearance;

39 (c) The state has the burden of showing noncompliance by a  
40 preponderance of the evidence. The court may not sanction the

1 offender for failure to pay legal financial obligations unless the  
2 court finds, after a hearing and on the record, that the failure to  
3 pay is willful. A failure to pay is willful if the offender has the  
4 current ability to pay but refuses to do so. In determining whether  
5 the offender has the current ability to pay, the court shall inquire  
6 into and consider: (i) The offender's income and assets; (ii) the  
7 offender's basic living costs as defined by RCW 10.101.010 and other  
8 liabilities including child support and other legal financial  
9 obligations; and (iii) the offender's bona fide efforts to acquire  
10 additional resources. An offender who is indigent as defined by RCW  
11 10.101.010(3) (a) through (c) is presumed to lack the current ability  
12 to pay;

13 (d) If the court determines that the offender is homeless or a  
14 person who is mentally ill, as defined in RCW 71.24.025, failure to  
15 pay a legal financial obligation is not willful noncompliance and  
16 shall not subject the offender to penalties;

17 (e) If the court finds that the failure to pay is willful  
18 noncompliance, the court may order the offender to be confined for a  
19 period not to exceed sixty days for each violation or order one or  
20 more of the penalties authorized in subsection (3)(a)(i) of this  
21 section; and

22 (f) If the court finds that the violation was not willful, the  
23 court may, and if the court finds that the defendant is indigent as  
24 defined in RCW 10.101.010(3) (a) through (c), the court shall modify  
25 the terms of payment of the legal financial obligations, reduce or  
26 waive nonrestitution legal financial obligations, or with the  
27 defendant's consent convert nonrestitution legal financial  
28 obligations to community restitution hours at the rate of no less  
29 than the state minimum wage established in RCW 49.46.020 for each  
30 hour of community restitution. The crime victim penalty assessment  
31 under RCW 7.68.035 may not be reduced, waived, or converted to  
32 community restitution hours.

33 (5) The community corrections officer may obtain information from  
34 the offender's mental health treatment provider on the offender's  
35 status with respect to evaluation, application for services,  
36 registration for services, and compliance with the supervision plan,  
37 without the offender's consent, as described under RCW 71.05.630.

38 ~~((+5+))~~ (6) An offender under community placement or community  
39 supervision who is civilly detained under chapter 71.05 RCW, and  
40 subsequently discharged or conditionally released to the community,



1 shall be under the supervision of the department of corrections for  
2 the duration of his or her period of community placement or community  
3 supervision. During any period of inpatient mental health treatment  
4 that falls within the period of community placement or community  
5 supervision, the inpatient treatment provider and the supervising  
6 community corrections officer shall notify each other about the  
7 offender's discharge, release, and legal status, and shall share  
8 other relevant information.

9 ~~((6))~~ (7) Nothing in this section prohibits the filing of  
10 escape charges if appropriate.

11 **Sec. 16.** RCW 3.62.085 and 2005 c 457 s 10 are each amended to  
12 read as follows:

13 Upon conviction or a plea of guilty in any court organized under  
14 this title or Title 35 RCW, a defendant in a criminal case is liable  
15 for a fee of forty-three dollars, except this fee shall not be  
16 imposed on a defendant who is indigent as defined in RCW  
17 10.101.010(3) (a) through (c). This fee shall be subject to division  
18 with the state under RCW 3.46.120(2), 3.50.100(2), 3.62.020(2),  
19 3.62.040(2), and 35.20.220(2).

20 **Sec. 17.** RCW 36.18.020 and 2013 2nd sp.s. c 7 s 3 are each  
21 amended to read as follows:

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

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

28 (a) In addition to any other fee required by law, the party  
29 filing the first or initial document in any civil action, including,  
30 but not limited to an action for restitution, adoption, or change of  
31 name, and any party filing a counterclaim, cross-claim, or third-  
32 party claim in any such civil action, shall pay, at the time the  
33 document is filed, a fee of two hundred dollars except, in an  
34 unlawful detainer action under chapter 59.18 or 59.20 RCW for which  
35 the plaintiff shall pay a case initiating filing fee of forty-five  
36 dollars, or in proceedings filed under RCW 28A.225.030 alleging a  
37 violation of the compulsory attendance laws where the petitioner  
38 shall not pay a filing fee. The forty-five dollar filing fee under

1 this subsection for an unlawful detainer action shall not include an  
2 order to show cause or any other order or judgment except a default  
3 order or default judgment in an unlawful detainer action.

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

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

10 (d) For filing of a petition for unlawful harassment under RCW  
11 10.14.040 a filing fee of fifty-three dollars.

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

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

17 (g) For filing any petition to contest a will admitted to probate  
18 or a petition to admit a will which has been rejected, or a petition  
19 objecting to a written agreement or memorandum as provided in RCW  
20 11.96A.220, there shall be paid a fee of two hundred dollars.

21 (h) Upon conviction or plea of guilty, upon failure to prosecute  
22 an appeal from a court of limited jurisdiction as provided by law, or  
23 upon affirmance of a conviction by a court of limited jurisdiction, a  
24 defendant in a criminal case shall be liable for a fee of two hundred  
25 dollars, except this fee shall not be imposed on a defendant who is  
26 indigent as defined in RCW 10.101.010(3) (a) through (c).

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

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

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

39 (5)(a) Until July 1, 2017, in addition to the fees required to be  
40 collected under this section, clerks of the superior courts must

1 collect surcharges as provided in this subsection (5) of which  
2 seventy-five percent must be remitted to the state treasurer for  
3 deposit in the judicial stabilization trust account and twenty-five  
4 percent must be retained by the county.

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

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

11 **Sec. 18.** RCW 43.43.7541 and 2011 c 125 s 1 are each amended to  
12 read as follows:

13 Every sentence imposed for a crime specified in RCW 43.43.754  
14 must include a fee of one hundred dollars unless the state has  
15 previously collected the offender's DNA as a result of a prior  
16 conviction. The fee is a court-ordered legal financial obligation as  
17 defined in RCW 9.94A.030 and other applicable law. For a sentence  
18 imposed under chapter 9.94A RCW, the fee is payable by the offender  
19 after payment of all other legal financial obligations included in  
20 the sentence has been completed. For all other sentences, the fee is  
21 payable by the offender in the same manner as other assessments  
22 imposed. The clerk of the court shall transmit eighty percent of the  
23 fee collected to the state treasurer for deposit in the state DNA  
24 database account created under RCW 43.43.7532, and shall transmit  
25 twenty percent of the fee collected to the agency responsible for  
26 collection of a biological sample from the offender as required under  
27 RCW 43.43.754.

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