
SUBSTITUTE SENATE BILL 6642

State of Washington

64th Legislature

2016 Regular Session

By Senate Ways & Means (originally sponsored by Senators Ranker, Padden, and Hargrove)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to the priority of payment of legal financial
2 obligations under the sentencing reform act; amending RCW 9.94A.760;
3 and providing an effective date.

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

5 **Sec. 1.** RCW 9.94A.760 and 2011 c 106 s 3 are each amended to
6 read as follows:

7 (1) Whenever a person is convicted in superior court, the court
8 may order the payment of a legal financial obligation as part of the
9 sentence. The court must on either the judgment and sentence or on a
10 subsequent order to pay, designate the total amount of a legal
11 financial obligation and segregate this amount among the separate
12 assessments made for restitution(~~(,)~~) to victims that have not been
13 fully compensated from other sources; restitution to insurance or
14 other sources with respect to a loss that has provided compensation
15 to victims; and costs, fines, and other assessments required by law.
16 ((On the same order,)) Restitution shall be entered pursuant to the
17 priorities set in the order setting restitution. The court is also to
18 set a sum that the offender is required to pay on a monthly basis
19 towards satisfying the legal financial obligation. If the court fails
20 to set the offender monthly payment amount, the department shall set

1 the amount if the department has active supervision of the offender,
2 otherwise the county clerk shall set the amount.

3 (2) Upon receipt of ((an offender's monthly)) each payment((~~rest~~
4 ~~itution shall be paid prior to any payments of other monetary~~
5 ~~obligations. After restitution is satisfied, the county clerk shall~~
6 ~~distribute the payment proportionally among all other fines, costs,~~
7 ~~and assessments imposed, unless otherwise ordered by the court)) made~~
8 by or on behalf of an offender, the payment shall be distributed in
9 the following order of priority until satisfied:

10 (a) First, proportionally to restitution to victims that have not
11 been fully compensated from other sources;

12 (b) Second, proportionally to restitution to insurance or other
13 sources with respect to a loss that has provided compensation to
14 victims;

15 (c) Third, proportionally to crime victims' assessments; and

16 (d) Fourth, proportionally to costs, fines, and other assessments
17 required by law.

18 ~~((+2))~~ (3) If the court determines that the offender, at the
19 time of sentencing, has the means to pay for the cost of
20 incarceration, the court may require the offender to pay for the cost
21 of incarceration at a rate of fifty dollars per day of incarceration,
22 if incarcerated in a prison, or the court may require the offender to
23 pay the actual cost of incarceration per day of incarceration, if
24 incarcerated in a county jail. In no case may the court require the
25 offender to pay more than one hundred dollars per day for the cost of
26 incarceration. ~~((Payment of other court ordered financial~~
27 ~~obligations, including all legal financial obligations and costs of~~
28 ~~supervision shall take precedence over the payment of the cost of~~
29 ~~incarceration ordered by the court.)) All funds recovered from
30 offenders for the cost of incarceration in the county jail shall be
31 remitted to the county and the costs of incarceration in a prison
32 shall be remitted to the department.~~

33 ~~((+3))~~ (4) The court may add to the judgment and sentence or
34 subsequent order to pay a statement that a notice of payroll
35 deduction is to be issued immediately. If the court chooses not to
36 order the immediate issuance of a notice of payroll deduction at
37 sentencing, the court shall add to the judgment and sentence or
38 subsequent order to pay a statement that a notice of payroll
39 deduction may be issued or other income-withholding action may be
40 taken, without further notice to the offender if a monthly court-

1 ordered legal financial obligation payment is not paid when due, and
2 an amount equal to or greater than the amount payable for one month
3 is owed.

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

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

1 jurisdiction over the offender, for purposes of the offender's
2 compliance with payment of the legal financial obligations, until the
3 obligation is completely satisfied, regardless of the statutory
4 maximum for the crime. The department may only supervise the
5 offender's compliance with payment of the legal financial obligations
6 during any period in which the department is authorized to supervise
7 the offender in the community under RCW 9.94A.728, 9.94A.501, or in
8 which the offender is confined in a state correctional institution or
9 a correctional facility pursuant to a transfer agreement with the
10 department, and the department shall supervise the offender's
11 compliance during any such period. The department is not responsible
12 for supervision of the offender during any subsequent period of time
13 the offender remains under the court's jurisdiction. The county clerk
14 is authorized to collect unpaid legal financial obligations at any
15 time the offender remains under the jurisdiction of the court for
16 purposes of his or her legal financial obligations.

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

26 ~~((+6))~~ (7) After completing the investigation, the department
27 shall make a report to the court on the amount of the monthly payment
28 that the offender should be required to make towards a satisfied
29 legal financial obligation.

30 ~~((+7))~~ (8)(a) During the period of supervision, the department
31 may make a recommendation to the court that the offender's monthly
32 payment schedule be modified so as to reflect a change in financial
33 circumstances. If the department sets the monthly payment amount, the
34 department may modify the monthly payment amount without the matter
35 being returned to the court. During the period of supervision, the
36 department may require the offender to report to the department for
37 the purposes of reviewing the appropriateness of the collection
38 schedule for the legal financial obligation. During this reporting,
39 the offender is required under oath to respond truthfully and
40 honestly to all questions concerning earning capabilities and the

1 location and nature of all property or financial assets. The offender
2 shall bring all documents requested by the department in order to
3 prepare the collection schedule.

4 (b) Subsequent to any period of supervision, or if the department
5 is not authorized to supervise the offender in the community, the
6 county clerk may make a recommendation to the court that the
7 offender's monthly payment schedule be modified so as to reflect a
8 change in financial circumstances. If the county clerk sets the
9 monthly payment amount, or if the department set the monthly payment
10 amount and the department has subsequently turned the collection of
11 the legal financial obligation over to the county clerk, the clerk
12 may modify the monthly payment amount without the matter being
13 returned to the court. During the period of repayment, the county
14 clerk may require the offender to report to the clerk for the purpose
15 of reviewing the appropriateness of the collection schedule for the
16 legal financial obligation. During this reporting, the offender is
17 required under oath to respond truthfully and honestly to all
18 questions concerning earning capabilities and the location and nature
19 of all property or financial assets. The offender shall bring all
20 documents requested by the county clerk in order to prepare the
21 collection schedule.

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

34 ~~((+9))~~ (10) The department or any obligee of the legal financial
35 obligation may seek a mandatory wage assignment for the purposes of
36 obtaining satisfaction for the legal financial obligation pursuant to
37 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify
38 the county clerk. The county clerks shall notify the department, or
39 the administrative office of the courts, whichever is providing the
40 monthly billing for the offender.

1 (~~(10)~~) (11) The requirement that the offender pay a monthly sum
2 towards a legal financial obligation constitutes a condition or
3 requirement of a sentence and the offender is subject to the
4 penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737,
5 or 9.94A.740.

6 (~~(11)~~) (12)(a) The administrative office of the courts shall
7 mail individualized periodic billings to the address known by the
8 office for each offender with an unsatisfied legal financial
9 obligation.

10 (b) The billing shall direct payments, other than outstanding
11 cost of supervision assessments under RCW 9.94A.780, parole
12 assessments under RCW 72.04A.120, and cost of probation assessments
13 under RCW 9.95.214, to the county clerk, and cost of supervision,
14 parole, or probation assessments to the department.

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

18 (d) The county clerks, the administrative office of the courts,
19 and the department shall maintain agreements to implement this
20 subsection.

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

29 (~~(13)~~) (14) The county clerk may access the records of the
30 employment security department for the purposes of verifying
31 employment or income, seeking any assignment of wages, or performing
32 other duties necessary to the collection of an offender's legal
33 financial obligations.

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

1 under the jurisdiction of the court for payment of legal financial
2 obligations.

3 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2016.

--- END ---