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**SUBSTITUTE HOUSE BILL 1489**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Goodman, Frame, Appleton, Valdez, Walen, and Jinkins; by request of Attorney General)

AN ACT Relating to creating a program for the consolidation of traffic-based financial obligations to facilitate reinstatement of driving privileges that are suspended because of failure to pay; amending RCW 46.63.110; adding a new section to chapter 46.63 RCW; adding a new section to chapter 46.64 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that suspension of driving privileges is a consequence when a person fails to pay certain civil or criminal traffic fines. The legislature also finds that the failure to pay fines is sometimes caused by a person's inability to pay all outstanding financial obligations at once. Moreover, creating and maintaining an affordable payment plan to satisfy such outstanding obligations can be complicated when a person faces fines from multiple jurisdictions simultaneously, especially if such jurisdictions use different entities for collection services. The legislature desires to establish an efficient and economical means by which persons with suspended driving privileges due to unpaid fines in multiple jurisdictions can consolidate the unpaid fines into a single affordable payment plan, which will allow persons to reinstate their driving privileges while still holding them responsible for their unlawful behavior and accountable for payment of the fines imposed.

NEW SECTION. **Sec.**  A new section is added to chapter 46.63 RCW to read as follows:

(1) There is created a program for the consolidation of traffic-based financial obligations from multiple courts of limited jurisdiction into a consolidated payment plan, to provide a path for the reinstatement of driving privileges that are suspended because of failure to comply with the terms of a notice of traffic infraction, criminal complaint, or citation for a moving violation.

(a) The administrative office of the courts shall oversee the program created by this section, and shall contract with a private agency or entity to act as program administrator to implement, administer, and service the consolidated payment plans authorized under the program created by this section.

(i) For the purposes of this section, the administrative office of the courts shall have authority equivalent to courts of limited jurisdiction as provided in RCW 3.02.045 and 46.63.110 to use one or more attorneys, accounts receivable companies, or collection agencies for purposes of collecting outstanding traffic-based financial obligations or administering payment plans and use credit cards or debit cards for purposes of billing and collecting unpaid traffic-based financial obligations, and, in the case of credit cards, assess as court costs the moneys paid for remuneration for services or charges paid to financial institutions.

(ii) Any program administrator that the administrative office of the courts contracts with under this section shall be licensed to operate in the state, and preference in the awarding of any contract shall be given to private agencies or entities with principals who have experience operating on behalf of one or more courts of limited jurisdiction in Washington.

(iii) Any program administrator that the administrative office of the courts contracts with under this section shall provide at least one payment option for participants that does not require or involve additional payment processing fees.

(b) In consultation with the Washington state district and municipal court judges' association and a statewide association representing collection agencies, the administrative office of the courts shall develop an online and paper application form to be used by applicants for the program created by this section. The application form shall include a section asking a prospective participant to attest, under penalty of perjury, if that person's annual income, after taxes, is one hundred twenty-five percent or less of the current federally established poverty level, or if that person receives one or more of the following types of public assistance: Temporary assistance for needy families; aged, blind, or disabled assistance benefits; medical care services under RCW 74.09.035; pregnant women assistance benefits; poverty-related veterans' benefits; food stamps or food stamp benefits transferred electronically; refugee resettlement benefits; medicaid; or supplemental security income.

(c) The administrative office of the courts may assess program participants a one-time payment plan establishment fee up to the amount allowed under RCW 46.20.341(2)(e). The fee shall be included in the total to be paid by the program participant. The fee hereby authorized is not subject to chapters 3.50, 3.62, and 35.20 RCW, and shall be used by the administrative office of the courts to support oversight of the program, with five percent of the establishment fee deposited into the state general fund to be transmitted by the state treasurer to the department to support public education about the program and what is required for a person to have that person's driving privileges restored.

(d) The administrative office of the courts may adopt policies that are necessary or convenient for purposes of administering the program created by this section including, but not limited to, policies governing the creation of the application form, payment plan terms, and other procedural rules or administrative matters within the purview of the judiciary. Prior to issuing any new policy for the program, the administrative office of the courts is encouraged to solicit public comment and consult with stakeholders, including, but not limited to, the Washington state district and municipal court judges' association, civil legal aid organizations, and a statewide association representing collection agencies.

(2) A person qualifies for entry into the program created by this section if:

(a) That person's driving privileges have been suspended pursuant to RCW 46.20.289 or that person has received a notice as provided in RCW 46.20.245 of a proposed suspension of driving privileges pursuant to RCW 46.20.289; and

(b) That person has unpaid traffic-based financial obligations imposed by two or more different courts of limited jurisdiction, each of which could independently serve as a basis for suspension of driving privileges if the person owing does not pay in full or the department does not receive certification from the appropriate court that the case is adjudicated.

(3) Even if a person qualifies under subsection (2) of this section, a person is ineligible to participate in the program created by this section if:

(a) The person has been removed from the program created by this section more than twice in the thirty-six month period preceding the date of application for failing to comply with the terms of a payment plan; or

(b) The unpaid traffic-based financial obligations from different jurisdictions have been referred to the same collecting attorney or collection agency, which is offering payment plan terms equivalent to the payment plan offered under the program created by this section.

(4) Any person qualifying for the program created by this section may enter the program by completing the application developed under subsection (1) of this section, submitting the application to the program administrator, entering into a payment plan with the program administrator, and making the first payment as required under said payment plan.

(5) Upon a person entering the program as provided in subsection (3) of this section, the program administrator shall promptly notify the relevant courts to which the program participant owes traffic-based financial obligations, as well as the collecting attorneys, accounts receivable companies, or collection agencies utilized by those courts, to inform the courts and their contracted collectors of the participant's entry in the program. Upon receiving notice that a person has entered the program created by this section, the courts shall promptly notify the department that the infraction or case for which the participant owes traffic-based financial obligations has been adjudicated, and the court's contracted collecting attorneys, accounts receivable companies, or collection agencies shall suspend collection efforts to allow the program administrator to administer the consolidated payment plan created by this section.

(6) As remuneration for administering the consolidated payment plan, the program administrator shall retain as revenue for itself sixty percent of the unpaid collection fees assessed under RCW 19.16.500, minus any court or legal costs paid by the local collecting attorney or collection agency related to a legal proceeding to collect the delinquent traffic-based financial obligations.

(7) While participating in the program created by this section, a participant must make regular monthly payments pursuant to the payment plan he or she entered into with the program administrator.

(a) The administrative office of the courts shall establish policies governing payment plans offered by the program created by this section.

(b) Through December 31, 2024, the standard payment plan terms offered by the program created by this section shall be as follows:

(i) For balances of five hundred dollars or less, a monthly payment of twenty-five dollars;

(ii) For balances of one thousand dollars or less, but more than five hundred dollars, a monthly payment of thirty-five dollars;

(iii) For balances of more than one thousand dollars, a monthly payment of fifty dollars; and

(iv) A monthly payment of twenty-five dollars, regardless of the outstanding balance, for participants with incomes at or below one hundred twenty-five percent of the current federally established poverty level, or for participants receiving one or more of the following types of public assistance: Temporary assistance for needy families; aged, blind, or disabled assistance benefits; medical care services under RCW 74.09.035; pregnant women assistance benefits; poverty-related veterans' benefits; food stamps or food stamp benefits transferred electronically; refugee resettlement benefits; medicaid; or supplemental security income.

After December 31, 2024, the administrative office of the courts may adopt new standard payment plan terms under the authority provided in this section.

(c) Notwithstanding any other provision in this section, a program participant may at any time elect to pay more than the minimum standard payment amount. In addition, any program participant may petition any court to which the program participant owes traffic-based financial obligations that have been consolidated under the program created by this section, and have that court assess the participant's ability to pay. The court hearing the petition, in its discretion, may order a monthly payment amount lower than the amount of the standard payment plan identified in this section.

(d) Provided a participant continues to comply with the terms of the payment plan, the participant may remain in the program created by this section until such time that all traffic-based financial obligations subject to consolidation are paid in full.

Payment plan terms shall set out the conditions under which a failure to comply with said terms will result in removal from the program, and shall at a minimum include that removal from the program will result if any payment due becomes more than forty-five days delinquent.

(8) While the participant is participating in the program created by this section, all unpaid accrued interest on the participant's traffic-based financial obligations subject to consolidation under the program shall be provisionally suspended.

(a) If a participant satisfies a traffic-based financial obligation subject to consolidation under the program by making all required payments and otherwise meeting the terms of the payment plan, all provisionally suspended unpaid accrued interest on the satisfied traffic-based financial obligation shall be waived.

(b) If a participant is removed from the program, the provisionally suspended unpaid accrued interest on the unsatisfied traffic-based financial obligations subject to consolidation under the program shall be reinstated.

(c) Nothing in this section shall be interpreted to limit a court's ability to independently waive, reduce, or suspend a portion or all of a fine or penalty.

(9) If a participant is removed from the program created by this section, the program administrator shall promptly notify the relevant courts to which the program participant still owes traffic-based financial obligations. Upon receiving the notice that the participant was removed from the program, the court shall promptly notify the department of the person's failure to meet the conditions of the payment plan, and the department shall suspend the person's driving privileges.

(10) Notwithstanding any other provision in this section, a traffic-based financial obligation shall not be eligible for consolidation under the program if a legal proceeding, such as garnishment, has commenced to collect the delinquent traffic-based financial obligation owed by the person, unless the court, in its discretion, authorizes the traffic-based financial obligation to be included in the consolidated payment plan pursuant to its authority under RCW 46.63.110(9).

(11) Payments made to the program administrator for the consolidated payment plans created by this section shall first be applied to the program establishment fee, with the remainder divided equally among the number of courts of limited jurisdiction that originally ordered the traffic-based financial obligations consolidated under the program. Revenue collected under the program created by this section shall be distributed to the appropriate courts of limited jurisdiction, or to the collecting attorneys, accounts receivable companies, or collection agencies that contract with said courts for distribution to the courts based upon the terms of the applicable contract, on a periodic basis not less frequently than monthly.

(12) For the purposes of this section:

(a) "Participant" means a person who has qualified and entered the program created by this section.

(b) "Payment plan" has the same meaning as in RCW 46.63.110(6).

(c) "Program" means the program for the consolidation of traffic-based financial obligations created by this section.

(d) "Program administrator" means the contracted private agency or entity tasked with implementing, administering, and servicing the consolidated payment plans authorized under the program created by this section.

(e) "Traffic-based financial obligation" means any monetary penalty, fee, cost, assessment, or other monetary obligation imposed when a person is either found to have committed a traffic infraction or convicted of a traffic misdemeanor or gross misdemeanor offense.

**Sec.**  RCW 46.63.110 and 2012 c 82 s 1 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a local payment plan with the person, unless the person has previously been granted a local payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior local payment plan, in which case the court may, at its discretion, implement a local payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a local payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the local payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the local payment plan, unless the court determines good cause therefor and adjusts the local payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a local payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a local payment plan under this section or has entered into a consolidated payment plan as authorized under section 2 of this act. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the local payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

NEW SECTION. **Sec.**  A new section is added to chapter 46.64 RCW to read as follows:

Whenever a court of limited jurisdiction imposes a monetary penalty, fee, cost, assessment, or other monetary obligation under this chapter for conviction of a violation of this title that is a misdemeanor or gross misdemeanor, the person who owes such obligations, if otherwise eligible, may consolidate the obligations with the program authorized under section 2 of this act.

NEW SECTION. **Sec.**  The administrator for the courts and the director of the department of licensing may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act take effect January 1, 2021.

**--- END ---**