

# HOUSE BILL REPORT

## SHB 2580

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### As Amended by the Senate

**Title:** An act relating to restitution.

**Brief Description:** Extending the period of time that a victim of crime may collect restitution from a juvenile.

**Sponsors:** By House Committee on Corrections (originally sponsored by Representatives Costa, Ballasiotes, Sheahan, Murray, Hickel, Cooke, Conway and Boldt).

**Brief History:**

**Committee Activity:**

Corrections: 1/24/96, 1/26/96 [DPS].

**Floor Activity:**

Passed House: 2/5/96, 96-0.

Senate Amended.

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### HOUSE COMMITTEE ON CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; Schoesler and D. Sommers.

**Staff:** Rick Neidhardt (786-7841).

**Background:** Background of the Juvenile Diversion Program. The juvenile diversion program allows a prosecutor to forego the filing of charges in the juvenile court and instead divert the case for alternative resolution. A diverted case is resolved by a contract between the juvenile and the local juvenile court's diversionary unit. This diversion agreement may last no longer than six months.

Some crimes are not eligible for diversion, including all Class A and Class B felonies, as well as many of the more serious Class C felonies. A juvenile is eligible for diversion only twice. A juvenile who substantially violates the terms of the diversion agreement may be charged in court with commission of the original offense.

Restitution Under a Diversion Agreement. A diversion agreement can require the juvenile to pay restitution. The amount of this restitution, however, is limited in two

ways. First, the amount cannot exceed the victim's actual loss. Second, the amount cannot exceed the juvenile's means or potential means to pay the restitution during the six-month period of the diversion agreement. Collection of this amount of restitution may occur during the six-month agreement period or during one six-month extension.

By comparison, restitution limitations are less restrictive outside the diversion context. When a juvenile's case has not been diverted, and the court orders restitution after a finding of guilt, the court may look to a 10-year period in determining the juvenile's ability or potential ability to pay restitution.

**Summary of Bill:** Any restitution required under a diversion agreement is no longer to be limited by any consideration of the juvenile's ability to pay restitution. Accordingly, the only upper limitation on the amount of restitution is the victim's actual loss.

If the amount of restitution required by the diversion agreement cannot be collected during the six-month period of the agreement or during the six-month extension, the remaining restitution may be collected by a collection agency, as long as the victim consents. The juvenile is responsible for paying any reasonable collection fees assessed by the collection agency.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment changes the procedures for collecting restitution that is not paid during the six-month period of the diversion agreement or during the six-month extension. Instead of authorizing use of a collection agency, the amendment calls for the juvenile to be referred to the juvenile court for entry of an order establishing the amount of restitution still owing. The juvenile can be required to pay full or partial restitution, depending on ability to pay, over a 10-year period. Jurisdiction over the juvenile is extended for a maximum term of 10 years after the juvenile's eighteenth birthday. The amendment directs county clerks to make disbursements to victims, establishes the priority of restitution payments, and allows for modification of restitution orders.

The Senate amendment also makes a change with regard to restitution in non-diversion cases. The amendment removes the provision in current law that a judge may waive restitution when committing a juvenile offender to a state juvenile facility for a period of confinement exceeding 15 weeks.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Juvenile offenders must be held accountable for the harm they cause. Financial impacts on crime victims can be significant. Six months is often not enough time for a juvenile to pay full restitution. Extending the monthly requirement to pay restitution serves as a monthly reminder to juvenile offenders of the harm they've caused. The message should be sent to juveniles that crime doesn't pay. One portion of the bill, addressing consultation with parents and victims in setting restitution, should be amended to correct an oversight.

**Testimony Against:** None.

**Testified:** Representative Jeralita Costa, prime sponsor.