
SUBSTITUTE HOUSE BILL 2138

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Sheahan, Appelwick, Scott, Hatfield, Dickerson, Thompson and Costa)

Read first time 01/18/96.

1 AN ACT Relating to the payment of fees; amending RCW 6.17.020,
2 9.94A.120, 9.94A.140, 9.94A.145, and 13.40.145; and reenacting and
3 amending RCW 9.94A.142.

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

5 **Sec. 1.** RCW 6.17.020 and 1995 c 231 s 4 are each amended to read
6 as follows:

7 (1) Except as provided in subsections (2), (3), and (4) of this
8 section, the party in whose favor a judgment of a court of record of
9 this state or a district court of this state has been or may be
10 rendered, or the assignee, may have an execution issued for the
11 collection or enforcement of the judgment at any time within ten years
12 from entry of the judgment.

13 (2) After July 23, 1989, a party who obtains a judgment or order of
14 a court of record of any state, or an administrative order entered as
15 defined in RCW 74.20A.020(6) for accrued child support, may have an
16 execution issued upon that judgment or order at any time within ten
17 years of the eighteenth birthday of the youngest child named in the
18 order for whom support is ordered.

1 (3) After June 9, 1994, a party in whose favor a judgment has been
2 rendered pursuant to subsection (1) or (4) of this section may, within
3 ninety days before the expiration of the original ten-year period,
4 apply to the court that rendered the judgment for an order granting an
5 additional ten years during which an execution may be issued. The
6 petitioner shall pay to the court a filing fee equal to the filing fee
7 for filing the first or initial paper in a civil action in the court.
8 When application is made to the court to grant an additional ten years,
9 the application shall be accompanied by a current and updated judgment
10 summary as outlined in RCW 4.64.030. The filing fee required under
11 this subsection shall be included in the judgment summary and shall be
12 a recoverable cost.

13 (4) A party who obtains a judgment or order for restitution or
14 other court-ordered legal financial obligations pursuant to a criminal
15 judgment and sentence may execute the judgment or order any time within
16 ten years subsequent to the entry of the judgment and sentence or ten
17 years following the offender's release from total confinement as
18 provided in chapter 9.94A RCW. The clerk of superior court may seek
19 extension under subsection (3) of this section for purposes of
20 collection as allowed under RCW 36.18.190.

21 **Sec. 2.** RCW 9.94A.120 and 1995 c 108 s 3 are each amended to read
22 as follows:

23 When a person is convicted of a felony, the court shall impose
24 punishment as provided in this section.

25 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
26 of this section, the court shall impose a sentence within the sentence
27 range for the offense.

28 (2) The court may impose a sentence outside the standard sentence
29 range for that offense if it finds, considering the purpose of this
30 chapter, that there are substantial and compelling reasons justifying
31 an exceptional sentence.

32 (3) Whenever a sentence outside the standard range is imposed, the
33 court shall set forth the reasons for its decision in written findings
34 of fact and conclusions of law. A sentence outside the standard range
35 shall be a determinate sentence.

36 (4) A persistent offender shall be sentenced to a term of total
37 confinement for life without the possibility of parole or, when
38 authorized by RCW 10.95.030 for the crime of aggravated murder in the

1 first degree, sentenced to death, notwithstanding the maximum sentence
2 under any other law. An offender convicted of the crime of murder in
3 the first degree shall be sentenced to a term of total confinement not
4 less than twenty years. An offender convicted of the crime of assault
5 in the first degree or assault of a child in the first degree where the
6 offender used force or means likely to result in death or intended to
7 kill the victim shall be sentenced to a term of total confinement not
8 less than five years. An offender convicted of the crime of rape in
9 the first degree shall be sentenced to a term of total confinement not
10 less than five years. The foregoing minimum terms of total confinement
11 are mandatory and shall not be varied or modified as provided in
12 subsection (2) of this section. In addition, all offenders subject to
13 the provisions of this subsection shall not be eligible for community
14 custody, earned early release time, furlough, home detention, partial
15 confinement, work crew, work release, or any other form of early
16 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
17 or any other form of authorized leave of absence from the correctional
18 facility while not in the direct custody of a corrections officer or
19 officers during such minimum terms of total confinement except in the
20 case of an offender in need of emergency medical treatment or for the
21 purpose of commitment to an inpatient treatment facility in the case of
22 an offender convicted of the crime of rape in the first degree.

23 (5) In sentencing a first-time offender the court may waive the
24 imposition of a sentence within the sentence range and impose a
25 sentence which may include up to ninety days of confinement in a
26 facility operated or utilized under contract by the county and a
27 requirement that the offender refrain from committing new offenses.
28 The sentence may also include up to two years of community supervision,
29 which, in addition to crime-related prohibitions, may include
30 requirements that the offender perform any one or more of the
31 following:

32 (a) Devote time to a specific employment or occupation;

33 (b) Undergo available outpatient treatment for up to two years, or
34 inpatient treatment not to exceed the standard range of confinement for
35 that offense;

36 (c) Pursue a prescribed, secular course of study or vocational
37 training;

1 (d) Remain within prescribed geographical boundaries and notify the
2 court or the community corrections officer prior to any change in the
3 offender's address or employment;

4 (e) Report as directed to the court and a community corrections
5 officer; or

6 (f) Pay all court-ordered legal financial obligations as provided
7 in RCW 9.94A.030 and/or perform community service work.

8 (6)(a) An offender is eligible for the special drug offender
9 sentencing alternative if:

10 (i) The offender is convicted of the manufacture, delivery, or
11 possession with intent to manufacture or deliver a controlled substance
12 classified in Schedule I or II that is a narcotic drug or a felony that
13 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
14 criminal solicitation, or criminal conspiracy to commit such crimes,
15 and the violation does not involve a sentence enhancement under RCW
16 9.94A.310 (3) or (4);

17 (ii) The offender has no prior convictions for a felony in this
18 state, another state, or the United States; and

19 (iii) The offense involved only a small quantity of the particular
20 controlled substance as determined by the judge upon consideration of
21 such factors as the weight, purity, packaging, sale price, and street
22 value of the controlled substance.

23 (b) If the midpoint of the standard range is greater than one year
24 and the sentencing judge determines that the offender is eligible for
25 this option and that the offender and the community will benefit from
26 the use of the special drug offender sentencing alternative, the judge
27 may waive imposition of a sentence within the standard range and impose
28 a sentence that must include a period of total confinement in a state
29 facility for one-half of the midpoint of the standard range. During
30 incarceration in the state facility, offenders sentenced under this
31 subsection shall undergo a comprehensive substance abuse assessment and
32 receive, within available resources, treatment services appropriate for
33 the offender. The treatment services shall be designed by the division
34 of alcohol and substance abuse of the department of social and health
35 services, in cooperation with the department of corrections. If the
36 midpoint of the standard range is twenty-four months or less, no more
37 than three months of the sentence may be served in a work release
38 status. The court shall also impose one year of concurrent community
39 custody and community supervision that must include appropriate

1 outpatient substance abuse treatment, crime-related prohibitions
2 including a condition not to use illegal controlled substances, and a
3 requirement to submit to urinalysis or other testing to monitor that
4 status. The court may require that the monitoring for controlled
5 substances be conducted by the department or by a treatment
6 (~~alternative[s]~~) alternatives to street crime program or a comparable
7 court or agency-referred program. The offender may be required to pay
8 thirty dollars per month while on community custody to offset the cost
9 of monitoring. In addition, the court shall impose three or more of
10 the following conditions:

- 11 (i) Devote time to a specific employment or training;
- 12 (ii) Remain within prescribed geographical boundaries and notify
13 the court or the community corrections officer before any change in the
14 offender's address or employment;
- 15 (iii) Report as directed to a community corrections officer;
- 16 (iv) Pay all court-ordered legal financial obligations;
- 17 (v) Perform community service work;
- 18 (vi) Stay out of areas designated by the sentencing judge.

19 (c) If the offender violates any of the sentence conditions in (b)
20 of this subsection, the department shall impose sanctions
21 administratively, with notice to the prosecuting attorney and the
22 sentencing court. Upon motion of the court or the prosecuting
23 attorney, a violation hearing shall be held by the court. If the court
24 finds that conditions have been willfully violated, the court may
25 impose confinement consisting of up to the remaining one-half of the
26 midpoint of the standard range. All total confinement served during
27 the period of community custody shall be credited to the offender,
28 regardless of whether the total confinement is served as a result of
29 the original sentence, as a result of a sanction imposed by the
30 department, or as a result of a violation found by the court. The term
31 of community supervision shall be tolled by any period of time served
32 in total confinement as a result of a violation found by the court.

33 (d) The department shall determine the rules for calculating the
34 value of a day fine based on the offender's income and reasonable
35 obligations which the offender has for the support of the offender and
36 any dependents. These rules shall be developed in consultation with
37 the administrator for the courts, the office of financial management,
38 and the commission.

1 (7) If a sentence range has not been established for the
2 defendant's crime, the court shall impose a determinate sentence which
3 may include not more than one year of confinement, community service
4 work, a term of community supervision not to exceed one year, and/or
5 other legal financial obligations. The court may impose a sentence
6 which provides more than one year of confinement if the court finds,
7 considering the purpose of this chapter, that there are substantial and
8 compelling reasons justifying an exceptional sentence.

9 (8)(a)(i) When an offender is convicted of a sex offense other than
10 a violation of RCW 9A.44.050 or a sex offense that is also a serious
11 violent offense and has no prior convictions for a sex offense or any
12 other felony sex offenses in this or any other state, the sentencing
13 court, on its own motion or the motion of the state or the defendant,
14 may order an examination to determine whether the defendant is amenable
15 to treatment.

16 The report of the examination shall include at a minimum the
17 following: The defendant's version of the facts and the official
18 version of the facts, the defendant's offense history, an assessment of
19 problems in addition to alleged deviant behaviors, the offender's
20 social and employment situation, and other evaluation measures used.
21 The report shall set forth the sources of the evaluator's information.

22 The examiner shall assess and report regarding the defendant's
23 amenability to treatment and relative risk to the community. A
24 proposed treatment plan shall be provided and shall include, at a
25 minimum:

- 26 (A) Frequency and type of contact between offender and therapist;
- 27 (B) Specific issues to be addressed in the treatment and
28 description of planned treatment modalities;
- 29 (C) Monitoring plans, including any requirements regarding living
30 conditions, lifestyle requirements, and monitoring by family members
31 and others;
- 32 (D) Anticipated length of treatment; and
- 33 (E) Recommended crime-related prohibitions.

34 The court on its own motion may order, or on a motion by the state
35 shall order, a second examination regarding the offender's amenability
36 to treatment. The evaluator shall be selected by the party making the
37 motion. The defendant shall pay the cost of any second examination
38 ordered unless the court finds the defendant to be indigent in which
39 case the state shall pay the cost.

1 (ii) After receipt of the reports, the court shall consider whether
2 the offender and the community will benefit from use of this special
3 sexual offender sentencing alternative and consider the victim's
4 opinion whether the offender should receive a treatment disposition
5 under this subsection. If the court determines that this special sex
6 offender sentencing alternative is appropriate, the court shall then
7 impose a sentence within the sentence range. If this sentence is less
8 than eight years of confinement, the court may suspend the execution of
9 the sentence and impose the following conditions of suspension:

10 (A) The court shall place the defendant on community supervision
11 for the length of the suspended sentence or three years, whichever is
12 greater; and

13 (B) The court shall order treatment for any period up to three
14 years in duration. The court in its discretion shall order outpatient
15 sex offender treatment or inpatient sex offender treatment, if
16 available. A community mental health center may not be used for such
17 treatment unless it has an appropriate program designed for sex
18 offender treatment. The offender shall not change sex offender
19 treatment providers or treatment conditions without first notifying the
20 prosecutor, the community corrections officer, and the court, and shall
21 not change providers without court approval after a hearing if the
22 prosecutor or community corrections officer object to the change. In
23 addition, as conditions of the suspended sentence, the court may impose
24 other sentence conditions including up to six months of confinement,
25 not to exceed the sentence range of confinement for that offense,
26 crime-related prohibitions, and requirements that the offender perform
27 any one or more of the following:

28 (I) Devote time to a specific employment or occupation;

29 (II) Remain within prescribed geographical boundaries and notify
30 the court or the community corrections officer prior to any change in
31 the offender's address or employment;

32 (III) Report as directed to the court and a community corrections
33 officer;

34 (IV) Pay all court-ordered legal financial obligations as provided
35 in RCW 9.94A.030, perform community service work, or any combination
36 thereof; or

37 (V) Make recoupment to the victim for the cost of any counseling
38 required as a result of the offender's crime.

1 (iii) The sex offender therapist shall submit quarterly reports on
2 the defendant's progress in treatment to the court and the parties.
3 The report shall reference the treatment plan and include at a minimum
4 the following: Dates of attendance, defendant's compliance with
5 requirements, treatment activities, the defendant's relative progress
6 in treatment, and any other material as specified by the court at
7 sentencing.

8 (iv) At the time of sentencing, the court shall set a treatment
9 termination hearing for three months prior to the anticipated date for
10 completion of treatment. Prior to the treatment termination hearing,
11 the treatment professional and community corrections officer shall
12 submit written reports to the court and parties regarding the
13 defendant's compliance with treatment and monitoring requirements, and
14 recommendations regarding termination from treatment, including
15 proposed community supervision conditions. Either party may request
16 and the court may order another evaluation regarding the advisability
17 of termination from treatment. The defendant shall pay the cost of any
18 additional evaluation ordered unless the court finds the defendant to
19 be indigent in which case the state shall pay the cost. At the
20 treatment termination hearing the court may: (A) Modify conditions of
21 community supervision, and either (B) terminate treatment, or (C)
22 extend treatment for up to the remaining period of community
23 supervision.

24 (v) The court may revoke the suspended sentence at any time during
25 the period of community supervision and order execution of the sentence
26 if: (A) The defendant violates the conditions of the suspended
27 sentence, or (B) the court finds that the defendant is failing to make
28 satisfactory progress in treatment. All confinement time served during
29 the period of community supervision shall be credited to the offender
30 if the suspended sentence is revoked.

31 (vi) Except as provided in (a)(vii) of this subsection, after July
32 1, 1991, examinations and treatment ordered pursuant to this subsection
33 shall only be conducted by sex offender treatment providers certified
34 by the department of health pursuant to chapter 18.155 RCW.

35 (vii) A sex offender therapist who examines or treats a sex
36 offender pursuant to this subsection (8) does not have to be certified
37 by the department of health pursuant to chapter 18.155 RCW if the court
38 finds that: (A) The offender has already moved to another state or
39 plans to move to another state for reasons other than circumventing the

1 certification requirements; (B) no certified providers are available
2 for treatment within a reasonable geographical distance of the
3 offender's home; and (C) the evaluation and treatment plan comply with
4 this subsection (8) and the rules adopted by the department of health.

5 For purposes of this subsection, "victim" means any person who has
6 sustained emotional, psychological, physical, or financial injury to
7 person or property as a result of the crime charged. "Victim" also
8 means a parent or guardian of a victim who is a minor child unless the
9 parent or guardian is the perpetrator of the offense.

10 (b) When an offender commits any felony sex offense on or after
11 July 1, 1987, and is sentenced to a term of confinement of more than
12 one year but less than six years, the sentencing court may, on its own
13 motion or on the motion of the offender or the state, request the
14 department of corrections to evaluate whether the offender is amenable
15 to treatment and the department may place the offender in a treatment
16 program within a correctional facility operated by the department.

17 Except for an offender who has been convicted of a violation of RCW
18 9A.44.040 or 9A.44.050, if the offender completes the treatment program
19 before the expiration of his or her term of confinement, the department
20 of corrections may request the court to convert the balance of
21 confinement to community supervision and to place conditions on the
22 offender including crime-related prohibitions and requirements that the
23 offender perform any one or more of the following:

- 24 (i) Devote time to a specific employment or occupation;
- 25 (ii) Remain within prescribed geographical boundaries and notify
26 the court or the community corrections officer prior to any change in
27 the offender's address or employment;
- 28 (iii) Report as directed to the court and a community corrections
29 officer;
- 30 (iv) Undergo available outpatient treatment.

31 If the offender violates any of the terms of his or her community
32 supervision, the court may order the offender to serve out the balance
33 of his or her community supervision term in confinement in the custody
34 of the department of corrections.

35 Nothing in this subsection (8)(b) shall confer eligibility for such
36 programs for offenders convicted and sentenced for a sex offense
37 committed prior to July 1, 1987. This subsection (8)(b) does not apply
38 to any crime committed after July 1, 1990.

1 (c) Offenders convicted and sentenced for a sex offense committed
2 prior to July 1, 1987, may, subject to available funds, request an
3 evaluation by the department of corrections to determine whether they
4 are amenable to treatment. If the offender is determined to be
5 amenable to treatment, the offender may request placement in a
6 treatment program within a correctional facility operated by the
7 department. Placement in such treatment program is subject to
8 available funds.

9 (9)(a) When a court sentences a person to a term of total
10 confinement to the custody of the department of corrections for an
11 offense categorized as a sex offense or a serious violent offense
12 committed after July 1, 1988, but before July 1, 1990, assault in the
13 second degree, assault of a child in the second degree, any crime
14 against a person where it is determined in accordance with RCW
15 9.94A.125 that the defendant or an accomplice was armed with a deadly
16 weapon at the time of commission, or any felony offense under chapter
17 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
18 committed on or after July 1, 1988, the court shall in addition to the
19 other terms of the sentence, sentence the offender to a one-year term
20 of community placement beginning either upon completion of the term of
21 confinement or at such time as the offender is transferred to community
22 custody in lieu of earned early release in accordance with RCW
23 9.94A.150 (1) and (2). When the court sentences an offender under this
24 subsection to the statutory maximum period of confinement then the
25 community placement portion of the sentence shall consist entirely of
26 such community custody to which the offender may become eligible, in
27 accordance with RCW 9.94A.150 (1) and (2). Any period of community
28 custody actually served shall be credited against the community
29 placement portion of the sentence.

30 (b) When a court sentences a person to a term of total confinement
31 to the custody of the department of corrections for an offense
32 categorized as a sex offense or serious violent offense committed on or
33 after July 1, 1990, the court shall in addition to other terms of the
34 sentence, sentence the offender to community placement for two years or
35 up to the period of earned early release awarded pursuant to RCW
36 9.94A.150 (1) and (2), whichever is longer. The community placement
37 shall begin either upon completion of the term of confinement or at
38 such time as the offender is transferred to community custody in lieu
39 of earned early release in accordance with RCW 9.94A.150 (1) and (2).

1 When the court sentences an offender under this subsection to the
2 statutory maximum period of confinement then the community placement
3 portion of the sentence shall consist entirely of the community custody
4 to which the offender may become eligible, in accordance with RCW
5 9.94A.150 (1) and (2). Any period of community custody actually served
6 shall be credited against the community placement portion of the
7 sentence. Unless a condition is waived by the court, the terms of
8 community placement for offenders sentenced pursuant to this section
9 shall include the following conditions:

10 (i) The offender shall report to and be available for contact with
11 the assigned community corrections officer as directed;

12 (ii) The offender shall work at department of corrections-approved
13 education, employment, and/or community service;

14 (iii) The offender shall not consume controlled substances except
15 pursuant to lawfully issued prescriptions;

16 (iv) An offender in community custody shall not unlawfully possess
17 controlled substances;

18 (v) The offender shall pay supervision fees as determined by the
19 department of corrections; and

20 (vi) The residence location and living arrangements are subject to
21 the prior approval of the department of corrections during the period
22 of community placement.

23 (c) The court may also order any of the following special
24 conditions:

25 (i) The offender shall remain within, or outside of, a specified
26 geographical boundary;

27 (ii) The offender shall not have direct or indirect contact with
28 the victim of the crime or a specified class of individuals;

29 (iii) The offender shall participate in crime-related treatment or
30 counseling services;

31 (iv) The offender shall not consume alcohol; or

32 (v) The offender shall comply with any crime-related prohibitions.

33 (d) Prior to transfer to, or during, community placement, any
34 conditions of community placement may be removed or modified so as not
35 to be more restrictive by the sentencing court, upon recommendation of
36 the department of corrections.

37 (10) If the court imposes a sentence requiring confinement of
38 thirty days or less, the court may, in its discretion, specify that the
39 sentence be served on consecutive or intermittent days. A sentence

1 requiring more than thirty days of confinement shall be served on
2 consecutive days. Local jail administrators may schedule court-ordered
3 intermittent sentences as space permits.

4 (11) If a sentence imposed includes payment of a legal financial
5 obligation, the sentence shall specify the total amount of the legal
6 financial obligation owed, and shall require the offender to pay a
7 specified monthly sum toward that legal financial obligation.
8 Restitution to victims shall be paid prior to any other payments of
9 monetary obligations. Any legal financial obligation that is imposed
10 by the court may be collected by the department, which shall deliver
11 the amount paid to the county clerk for credit. The offender's
12 compliance with payment of legal financial obligations shall be
13 supervised by the department for ten years following the entry of the
14 judgment and sentence or ten years following the offender's release
15 from total confinement. All monetary payments ordered shall be paid no
16 later than ten years after the last date of release from confinement
17 pursuant to a felony conviction or the date the sentence was entered
18 unless the superior court extends the criminal judgment an additional
19 ten years. If the legal financial obligations are not paid during the
20 initial ten-year period, the superior court may extend jurisdiction
21 under the criminal judgment an additional ten years as provided in RCW
22 9.94A.140, 9.94A.142, and 9.94A.145. If jurisdiction under the
23 criminal judgment is extended, the department is not responsible for
24 supervision of the offender during the subsequent period. Independent
25 of the department, the party or entity to whom the legal financial
26 obligation is owed shall have the authority to utilize any other
27 remedies available to the party or entity to collect the legal
28 financial obligation. Nothing in this section makes the department,
29 the state, or any of its employees, agents, or other persons acting on
30 their behalf liable under any circumstances for the payment of these
31 legal financial obligations. If an order includes restitution as one
32 of the monetary assessments, the county clerk shall make disbursements
33 to victims named in the order.

34 (12) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
35 court may not impose a sentence providing for a term of confinement or
36 community supervision or community placement which exceeds the
37 statutory maximum for the crime as provided in chapter 9A.20 RCW.

38 (13) All offenders sentenced to terms involving community
39 supervision, community service, community placement, or legal financial

1 obligation shall be under the supervision of the secretary of the
2 department of corrections or such person as the secretary may designate
3 and shall follow explicitly the instructions of the secretary including
4 reporting as directed to a community corrections officer, remaining
5 within prescribed geographical boundaries, notifying the community
6 corrections officer of any change in the offender's address or
7 employment, and paying the supervision fee assessment. The department
8 may require offenders to pay for special services rendered on or after
9 July 25, 1993, including electronic monitoring, day reporting, and
10 telephone reporting, dependent upon the offender's ability to pay. The
11 department may pay for these services for offenders who are not able to
12 pay.

13 (14) All offenders sentenced to terms involving community
14 supervision, community service, or community placement under the
15 supervision of the department of corrections shall not own, use, or
16 possess firearms or ammunition. Offenders who own, use, or are found
17 to be in actual or constructive possession of firearms or ammunition
18 shall be subject to the appropriate violation process and sanctions.
19 "Constructive possession" as used in this subsection means the power
20 and intent to control the firearm or ammunition. "Firearm" as used in
21 this subsection means a weapon or device from which a projectile may be
22 fired by an explosive such as gunpowder.

23 (15) The sentencing court shall give the offender credit for all
24 confinement time served before the sentencing if that confinement was
25 solely in regard to the offense for which the offender is being
26 sentenced.

27 (16) A departure from the standards in RCW 9.94A.400 (1) and (2)
28 governing whether sentences are to be served consecutively or
29 concurrently is an exceptional sentence subject to the limitations in
30 subsections (2) and (3) of this section, and may be appealed by the
31 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

32 (17) The court shall order restitution whenever the offender is
33 convicted of a felony that results in injury to any person or damage to
34 or loss of property, whether the offender is sentenced to confinement
35 or placed under community supervision, unless extraordinary
36 circumstances exist that make restitution inappropriate in the court's
37 judgment. The court shall set forth the extraordinary circumstances in
38 the record if it does not order restitution.

1 (18) As a part of any sentence, the court may impose and enforce an
2 order that relates directly to the circumstances of the crime for which
3 the offender has been convicted, prohibiting the offender from having
4 any contact with other specified individuals or a specific class of
5 individuals for a period not to exceed the maximum allowable sentence
6 for the crime, regardless of the expiration of the offender's term of
7 community supervision or community placement.

8 (19) In any sentence of partial confinement, the court may require
9 the defendant to serve the partial confinement in work release, in a
10 program of home detention, on work crew, or in a combined program of
11 work crew and home detention.

12 (20) All court-ordered legal financial obligations collected by the
13 department and remitted to the county clerk shall be credited and paid
14 where restitution is ordered. Restitution shall be paid prior to any
15 other payments of monetary obligations.

16 **Sec. 3.** RCW 9.94A.140 and 1995 c 231 s 1 are each amended to read
17 as follows:

18 (1) If restitution is ordered, the court shall determine the amount
19 of restitution due at the sentencing hearing or within one hundred
20 eighty days. The court may continue the hearing beyond the one hundred
21 eighty days for good cause. The court shall then set a minimum monthly
22 payment that the offender is required to make towards the restitution
23 that is ordered. The court should take into consideration the total
24 amount of the restitution owed, the offender's present, past, and
25 future ability to pay, as well as any assets that the offender may
26 have. During the period of supervision, the community corrections
27 officer may examine the offender to determine if there has been a
28 change in circumstances that warrants an amendment of the monthly
29 payment schedule. The community corrections officer may recommend a
30 change to the schedule of payment and shall inform the court of the
31 recommended change and the reasons for the change. The sentencing
32 court may then reset the monthly minimum payments based on the report
33 from the community corrections officer of the change in circumstances.
34 Restitution ordered by a court pursuant to a criminal conviction shall
35 be based on easily ascertainable damages for injury to or loss of
36 property, actual expenses incurred for treatment for injury to persons,
37 and lost wages resulting from injury. Restitution shall not include
38 reimbursement for damages for mental anguish, pain and suffering, or

1 other intangible losses, but may include the costs of counseling
2 reasonably related to the offense. The amount of restitution shall not
3 exceed double the amount of the offender's gain or the victim's loss
4 from the commission of the crime. For the purposes of this section,
5 the offender shall remain under the court's jurisdiction for a
6 ((maximum)) term of ten years following the offender's release from
7 total confinement or ten years subsequent to the entry of the judgment
8 and sentence, whichever period is longer. Prior to the expiration of
9 the initial ten-year period, the superior court may extend jurisdiction
10 under the criminal judgment an additional ten years for payment of
11 restitution. If jurisdiction under the criminal judgment is extended,
12 the department is not responsible for supervision of the offender
13 during the subsequent period. The portion of the sentence concerning
14 restitution may be modified as to amount, terms and conditions during
15 either the initial ten-year period or subsequent ten-year period if the
16 criminal judgment is extended, regardless of the expiration of the
17 offender's term of community supervision and regardless of the
18 statutory maximum for the crime. The court may not reduce the total
19 amount of restitution ordered because the offender may lack the ability
20 to pay the total amount. The offender's compliance with the
21 restitution shall be supervised by the department.

22 (2) Restitution may be ordered whenever the offender is convicted
23 of an offense which results in injury to any person or damage to or
24 loss of property. In addition, restitution may be ordered to pay for
25 an injury, loss, or damage if the offender pleads guilty to a lesser
26 offense or fewer offenses and agrees with the prosecutor's
27 recommendation that the offender be required to pay restitution to a
28 victim of an offense or offenses which are not prosecuted pursuant to
29 a plea agreement.

30 (3) In addition to any sentence that may be imposed, a defendant
31 who has been found guilty of an offense involving fraud or other
32 deceptive practice or an organization which has been found guilty of
33 any such offense may be ordered by the sentencing court to give notice
34 of the conviction to the class of persons or to the sector of the
35 public affected by the conviction or financially interested in the
36 subject matter of the offense by mail, by advertising in designated
37 areas or through designated media, or by other appropriate means.

38 (4) This section does not limit civil remedies or defenses
39 available to the victim or defendant. The court shall identify in the

1 judgment and sentence the victim or victims entitled to restitution and
2 what amount is due each victim. The state or victim may enforce the
3 court-ordered restitution in the same manner as a judgment in a civil
4 action. Restitution collected through civil enforcement must be paid
5 through the registry of the court and must be distributed
6 proportionately according to each victim's loss when there is more than
7 one victim.

8 **Sec. 4.** RCW 9.94A.142 and 1995 c 231 s 2 and 1995 c 33 s 4 are
9 each reenacted and amended to read as follows:

10 (1) When restitution is ordered, the court shall determine the
11 amount of restitution due at the sentencing hearing or within one
12 hundred eighty days except as provided in subsection (3) of this
13 section. The court may continue the hearing beyond the one hundred
14 eighty days for good cause. The court shall then set a minimum monthly
15 payment that the offender is required to make towards the restitution
16 that is ordered. The court should take into consideration the total
17 amount of the restitution owed, the offender's present, past, and
18 future ability to pay, as well as any assets that the offender may
19 have. During the period of supervision, the community corrections
20 officer may examine the offender to determine if there has been a
21 change in circumstances that warrants an amendment of the monthly
22 payment schedule. The community corrections officer may recommend a
23 change to the schedule of payment and shall inform the court of the
24 recommended change and the reasons for the change. The sentencing
25 court may then reset the monthly minimum payments based on the report
26 from the community corrections officer of the change in circumstances.
27 Restitution ordered by a court pursuant to a criminal conviction shall
28 be based on easily ascertainable damages for injury to or loss of
29 property, actual expenses incurred for treatment for injury to persons,
30 and lost wages resulting from injury. Restitution shall not include
31 reimbursement for damages for mental anguish, pain and suffering, or
32 other intangible losses, but may include the costs of counseling
33 reasonably related to the offense. The amount of restitution shall not
34 exceed double the amount of the offender's gain or the victim's loss
35 from the commission of the crime. For the purposes of this section,
36 the offender shall remain under the court's jurisdiction for a
37 ((maximum)) term of ten years following the offender's release from
38 total confinement or ten years subsequent to the entry of the judgment

1 and sentence, whichever period is longer. Prior to the expiration of
2 the initial ten-year period, the superior court may extend jurisdiction
3 under the criminal judgment an additional ten years for payment of
4 restitution. The portion of the sentence concerning restitution may be
5 modified as to amount, terms and conditions during either the initial
6 ten-year period or subsequent ten-year period if the criminal judgment
7 is extended, regardless of the expiration of the offender's term of
8 community supervision and regardless of the statutory maximum for the
9 crime. The court may not reduce the total amount of restitution
10 ordered because the offender may lack the ability to pay the total
11 amount. The offender's compliance with the restitution shall be
12 supervised by the department for ten years following the entry of the
13 judgment and sentence or ten years following the offender's release
14 from total confinement. If jurisdiction under the criminal judgment is
15 extended, the department is not responsible for supervision of the
16 offender during the subsequent period.

17 (2) Restitution shall be ordered whenever the offender is convicted
18 of an offense which results in injury to any person or damage to or
19 loss of property unless extraordinary circumstances exist which make
20 restitution inappropriate in the court's judgment and the court sets
21 forth such circumstances in the record. In addition, restitution shall
22 be ordered to pay for an injury, loss, or damage if the offender pleads
23 guilty to a lesser offense or fewer offenses and agrees with the
24 prosecutor's recommendation that the offender be required to pay
25 restitution to a victim of an offense or offenses which are not
26 prosecuted pursuant to a plea agreement.

27 (3) Regardless of the provisions of subsections (1) and (2) of this
28 section, the court shall order restitution in all cases where the
29 victim is entitled to benefits under the crime victims' compensation
30 act, chapter 7.68 RCW. If the court does not order restitution and the
31 victim of the crime has been determined to be entitled to benefits
32 under the crime victims' compensation act, the department of labor and
33 industries, as administrator of the crime victims' compensation
34 program, may petition the court within one year of entry of the
35 judgment and sentence for entry of a restitution order. Upon receipt
36 of a petition from the department of labor and industries, the court
37 shall hold a restitution hearing and shall enter a restitution order.

38 (4) In addition to any sentence that may be imposed, a defendant
39 who has been found guilty of an offense involving fraud or other

1 deceptive practice or an organization which has been found guilty of
2 any such offense may be ordered by the sentencing court to give notice
3 of the conviction to the class of persons or to the sector of the
4 public affected by the conviction or financially interested in the
5 subject matter of the offense by mail, by advertising in designated
6 areas or through designated media, or by other appropriate means.

7 (5) This section does not limit civil remedies or defenses
8 available to the victim, survivors of the victim, or defendant. The
9 court shall identify in the judgment and sentence the victim or victims
10 entitled to restitution and what amount is due each victim. The state
11 or victim may enforce the court-ordered restitution in the same manner
12 as a judgment in a civil action. Restitution collected through civil
13 enforcement must be paid through the registry of the court and must be
14 distributed proportionately according to each victim's loss when there
15 is more than one victim.

16 (6) This section shall apply to offenses committed after July 1,
17 1985.

18 **Sec. 5.** RCW 9.94A.145 and 1995 c 231 s 3 are each amended to read
19 as follows:

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

34 (2) If the court determines that the offender, at the time of
35 sentencing, has the means to pay for the cost of incarceration, the
36 court may require the offender to pay for the cost of incarceration at
37 a rate of fifty dollars per day of incarceration. Payment of other
38 court-ordered financial obligations, including all legal financial

1 obligations and costs of supervision shall take precedence over the
2 payment of the cost of incarceration ordered by the court. All funds
3 recovered from offenders for the cost of incarceration in the county
4 jail shall be remitted to the county and the costs of incarceration in
5 a prison shall be remitted to the department of corrections.

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

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

23 (4) All legal financial obligations that are ordered as a result of
24 a conviction for a felony, may also be enforced in the same manner as
25 a judgment in a civil action by the party or entity to whom the legal
26 financial obligation is owed. Restitution collected through civil
27 enforcement must be paid through the registry of the court and must be
28 distributed proportionately according to each victim's loss when there
29 is more than one victim. The judgment and sentence shall identify the
30 party or entity to whom restitution is owed so that the state, party,
31 or entity may enforce the judgment. These obligations may be enforced
32 at any time during the ten-year period following the offender's release
33 from total confinement or within ten years of entry of the judgment and
34 sentence, whichever period is longer. Prior to the expiration of the
35 initial ten-year period, the superior court may extend the criminal
36 judgment an additional ten years for payment of legal financial
37 obligations. If jurisdiction under the criminal judgment is extended,
38 the department is not responsible for supervision of the offender
39 during the subsequent period. Independent of the department, the party

1 or entity to whom the legal financial obligation is owed shall have the
2 authority to utilize any other remedies available to the party or
3 entity to collect the legal financial obligation.

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

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

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

31 (8) After the judgment and sentence or payment order is entered,
32 the department shall for any period of supervision be authorized to
33 collect the legal financial obligation from the offender. Any amount
34 collected by the department shall be remitted daily to the county clerk
35 for the purposes of disbursements. The department is authorized to
36 accept credit cards as payment for a legal financial obligation, and
37 any costs incurred related to accepting credit card payments shall be
38 the responsibility of the offender.

1 (9) The department or any obligee of the legal financial obligation
2 may seek a mandatory wage assignment for the purposes of obtaining
3 satisfaction for the legal financial obligation pursuant to RCW
4 9.94A.2001.

5 (10) The requirement that the offender pay a monthly sum towards a
6 legal financial obligation constitutes a condition or requirement of a
7 sentence and the offender is subject to the penalties as provided in
8 RCW 9.94A.200 for noncompliance.

9 (11) The county clerk shall provide the department with
10 individualized monthly billings for each offender with an unsatisfied
11 legal financial obligation and shall provide the department with notice
12 of payments by such offenders no less frequently than weekly.

13 **Sec. 6.** RCW 13.40.145 and 1995 c 275 s 4 are each amended to read
14 as follows:

15 Upon disposition or at the time of a modification or at the time an
16 appellate court remands the case to the trial court following a ruling
17 in favor of the state the court may order the juvenile or a parent or
18 another person legally obligated to support the juvenile to appear, and
19 the court may inquire into the ability of those persons to pay a
20 reasonable sum representing in whole or in part the fees for legal
21 services provided by publicly funded counsel and the costs incurred by
22 the public in producing a verbatim report of proceedings and clerk's
23 papers for use in the appellate courts.

24 If, after hearing, the court finds the juvenile, parent, or other
25 legally obligated person able to pay part or all of the attorney's fees
26 and costs incurred on appeal, the court may enter such order or decree
27 as is equitable and may enforce the order or decree by execution, or in
28 any way in which a court of equity may enforce its decrees.

29 In no event may the court order an amount to be paid for attorneys'
30 fees that exceeds the average per case fee allocation for juvenile
31 proceedings in the county where the services have been provided or the
32 average per case fee allocation for juvenile appeals established by the
33 Washington supreme court.

34 In any case in which there is no compliance with an order or decree
35 of the court requiring a juvenile, parent, or other person legally
36 obligated to support the juvenile to pay for legal services provided by
37 publicly funded counsel, the court may, upon such person or persons
38 being properly summoned or voluntarily appearing, proceed to inquire

1 into the amount due upon the order or decree and enter judgment for
2 that amount against the defaulting party or parties. Judgment shall be
3 docketed in the same manner as are other judgments for the payment of
4 money.

5 The county in which such judgments are entered shall be denominated
6 the judgment creditor, and the judgments may be enforced by the
7 prosecuting attorney of that county. Any moneys recovered thereon
8 shall be paid into the registry of the court and shall be disbursed to
9 such person, persons, agency, or governmental entity as the court finds
10 entitled thereto.

11 Such judgments shall remain valid and enforceable for a period of
12 ten years subsequent to entry.

13 When the juvenile reaches the age of eighteen or at the conclusion
14 of juvenile court jurisdiction, whichever occurs later, the superior
15 court clerk must docket the remaining balance of the juvenile's legal
16 financial obligations in the same manner as other judgments for the
17 payment of money. The judgment remains valid and enforceable until ten
18 years from the date of its imposition. The clerk of superior court may
19 seek extension of the judgment for legal financial obligations in the
20 same manner as RCW 6.17.020 for purposes of collection as allowed under
21 RCW 36.18.190.

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