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**SUBSTITUTE HOUSE BILL 1274**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Cairnes, O'Brien, Ballasiotes, Lovick, Koster and Haigh)

Read first time 02/26/1999.

1 AN ACT Relating to jails; amending RCW 70.48.020 and 10.01.160;  
2 reenacting and amending RCW 9.94A.145 and 9.94A.380; adding new  
3 sections to chapter 70.48 RCW; and repealing RCW 72.01.415.

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

5 NEW SECTION. **Sec. 1.** A governing unit may require that each  
6 person who is booked at a city, county, or regional jail pay a fee of  
7 ten dollars to the sheriff's department of the county or police chief  
8 of the city in which the jail is located. The fee is payable  
9 immediately from any money then possessed by the person being booked,  
10 or any money deposited with the sheriff's department or city jail  
11 administration on the person's behalf. If the person has no funds at  
12 the time of booking or during the period of incarceration, the sheriff  
13 or police chief may notify the court in the county or city where the  
14 charges related to the booking are pending, and may request the  
15 assessment of the fee. Unless the person is held on other criminal  
16 matters, if the person is not charged, is acquitted, or if all charges  
17 are dismissed, the sheriff or police chief shall return the fee to the  
18 person at the last known address listed in the booking records.

1       **Sec. 2.** RCW 70.48.020 and 1987 c 462 s 6 are each amended to read  
2 as follows:

3       As used in this chapter the words and phrases in this section shall  
4 have the meanings indicated unless the context clearly requires  
5 otherwise.

6       (1) "Holding facility" means a facility operated by a governing  
7 unit primarily designed, staffed, and used for the temporary housing of  
8 adult persons charged with a criminal offense prior to trial or  
9 sentencing and for the temporary housing of such persons during or  
10 after trial and/or sentencing, but in no instance shall the housing  
11 exceed thirty days.

12       (2) "Detention facility" means a facility operated by a governing  
13 unit primarily designed, staffed, and used for the temporary housing of  
14 adult persons charged with a criminal offense prior to trial or  
15 sentencing and for the housing of adult persons for purposes of  
16 punishment and correction after sentencing or persons serving terms not  
17 to exceed ninety days.

18       (3) "Special detention facility" means a minimum security facility  
19 operated by a governing unit primarily designed, staffed, and used for  
20 the housing of special populations of sentenced persons who do not  
21 require the level of security normally provided in detention and  
22 correctional facilities including, but not necessarily limited to,  
23 persons convicted of offenses under RCW 46.61.502 or 46.61.504.

24       (4) "Correctional facility" means a facility operated by a  
25 governing unit primarily designed, staffed, and used for the housing of  
26 adult persons serving terms not exceeding one year for the purposes of  
27 punishment, correction, and rehabilitation following conviction of a  
28 criminal offense.

29       (5) "Cost of incarceration" means the cost of providing a prisoner  
30 with shelter, food, clothing, transportation, supervision, health care,  
31 and other services and supplies as may be necessary for the maintenance  
32 and support of the prisoner while in custody, based on the actual cost  
33 per day per prisoner established by the governing unit.

34       (6) "Jail" means any holding, detention, special detention, or  
35 correctional facility as defined in this section.

36       (~~(6)~~) (7) "Health care" means preventive, diagnostic, and  
37 rehabilitative services provided by licensed health care professionals  
38 and/or facilities; such care to include providing prescription drugs  
39 where indicated.

1       (~~(7)~~) (8) "Governing unit" means the city and/or county or any  
2 combinations of cities and/or counties responsible for the operation,  
3 supervision, and maintenance of a jail.

4       (~~(8)~~) (9) "Major urban" means a county or combination of counties  
5 which has a city having a population greater than twenty-six thousand  
6 based on the 1978 projections of the office of financial management.

7       (~~(9)~~) (10) "Medium urban" means a county or combination of  
8 counties which has a city having a population equal to or greater than  
9 ten thousand but less than twenty-six thousand based on the 1978  
10 projections of the office of financial management.

11       (~~(10)~~) (11) "Prisoner" means a person who has been convicted and  
12 sentenced to a term of imprisonment in a county or city jail or  
13 detention facility for a crime punishable under the laws of this state,  
14 including a person sentenced as a condition of probation, but does not  
15 include a person who is committed to a county jail under RCW 70.48.140.

16       (12) "Rural" means a county or combination of counties which has a  
17 city having a population less than ten thousand based on the 1978  
18 projections of the office of financial management.

19       (~~(11)~~) (13) "Office" means the office of financial management.

20       NEW SECTION. Sec. 3. A governing unit may seek reimbursement from  
21 a nonindigent prisoner for cost of incarceration incurred by the county  
22 or city for the maintenance and support of the prisoner in a county or  
23 city jail or detention facility, including expenses incurred during a  
24 period of pretrial detention if time served during the pretrial  
25 detention is credited by the court against any sentence imposed. The  
26 reimbursement may be payable from any money then possessed by the  
27 prisoner or any money deposited with the jail on the prisoner's behalf.

28       NEW SECTION. Sec. 4. Before a governing unit may request  
29 reimbursement from a prisoner, the governing unit must conduct an  
30 investigation of the financial status of the prisoner.

31       NEW SECTION. Sec. 5. (1) At any time after the conviction of a  
32 prisoner, and after the financial status of the prisoner has been  
33 determined or the prisoner has refused to cooperate with the financial  
34 status investigation set forth in section 4 of this act, the sheriff of  
35 the county, or the administrator of the department of detention or the  
36 person appointed to administer a city jail, may issue a written demand

1 to the prisoner for reimbursement of the expenses incurred by the  
2 county or city for the prisoner's maintenance and support during his  
3 period of imprisonment.

4 (2) The prisoner shall pay the total amount due when the written  
5 demand is issued. The prisoner may arrange to make payments on a  
6 monthly basis. If such arrangements are made, the prisoner must be  
7 provided with a monthly billing statement that specifies the date on  
8 which the next payment is due.

9 (3) If the prisoner does not satisfy the written demand for  
10 reimbursement within the time set, the prosecuting attorney for a  
11 county or the city attorney for an incorporated city may file a civil  
12 action under section 6 of this act.

13 NEW SECTION. **Sec. 6.** (1) If a prisoner fails to make a payment  
14 within ten days after it is due, the county prosecutor or the city  
15 attorney for an incorporated city may file a civil action in a court of  
16 competent jurisdiction within this state seeking recovery of:

17 (a) The amount of reimbursement due;

18 (b) Costs incurred in conducting an investigation of the financial  
19 status of the prisoner; and

20 (c) Attorneys' fees and costs.

21 (2) A civil action brought under this section must:

22 (a) Be instituted in the name of the county or city in which the  
23 jail or detention facility is located;

24 (b) Indicate the date and place of sentencing, including the name  
25 of the court that imposed the sentence;

26 (c) Include the record of judgment of conviction, if available;

27 (d) Indicate the length of time served by the prisoner and, if the  
28 prisoner has been released, the date of release; and

29 (e) Indicate the amount of reimbursement that the prisoner owes to  
30 the county or city.

31 (3) The treasurer of the governing unit in which a prisoner is or  
32 was confined shall determine the amount of reimbursement that the  
33 prisoner owes to the governing unit. The treasurer may render a sworn  
34 statement indicating the amount of reimbursement that the prisoner owes  
35 and submit the statement in support of a civil action brought under  
36 this section. The statement is prima facie evidence of the amount due.

1 (4) A court in a civil action brought under this section may award  
2 a money judgment in favor of the governing unit in whose name the  
3 action was brought.

4 (5) If necessary to prevent the disposition of the prisoner's  
5 property by the prisoner, or the prisoner's spouse or agent, a  
6 governing unit may file a motion for a temporary restraining order.  
7 The court may, without a hearing, issue ex parte orders restraining  
8 any person from transferring, encumbering, hypothecating, concealing,  
9 or in any way disposing of any property of the prisoner, real or  
10 personal, whether community or separate, except for necessary living  
11 expenses.

12 (6) The payment, under a judicial order, of existing obligations  
13 for:

14 (a) Child support or alimony;

15 (b) Restitution to victims of crimes; and

16 (c) Court-ordered legal financial obligations pursuant to RCW  
17 9.94A.145;

18 has priority over the payment of a judgment entered under this section.

19 (7) The governing unit may seek a mandatory wage assignment for the  
20 purposes of obtaining satisfaction for the legal financial obligation  
21 pursuant to RCW 9.94A.2001.

22 NEW SECTION. **Sec. 7.** (1) A prisoner who is or was sentenced to a  
23 term of imprisonment in a county or city jail or detention facility  
24 shall cooperate with the governing unit in satisfying the reimbursement  
25 sought by the governing unit under sections 3 through 9 of this act.

26 (2) The governing unit may reduce or deny a credit on the  
27 prisoner's term of imprisonment for any prisoner who willfully refuses  
28 to cooperate under subsection (1) of this section.

29 NEW SECTION. **Sec. 8.** The sheriff of the county or the  
30 administrator of the department of detention or a person chosen to  
31 administer a city jail shall provide the prosecuting attorney of the  
32 county or the city attorney of the incorporated city all information  
33 and assistance possible to enable the prosecutor or city attorney to  
34 secure reimbursement for the county or city under sections 3 through 9  
35 of this act.

1        NEW SECTION.    **Sec. 9.** Reimbursements secured or otherwise obtained  
2 by a local legislative authority under sections 3 through 9 of this act  
3 must be credited to the jail operating budget of the county or city,  
4 provided that the offender's earnings from jail industries shall be  
5 deposited as specified in RCW 36.110.110. The county or city shall  
6 reimburse the governmental entity for its payment to the extent of the  
7 amount received from the prisoner if:

8            (1) In accordance with a contractual agreement, the county or city  
9 was paid by another governmental entity for expenses related to  
10 maintaining and supporting a prisoner; and

11           (2) The prisoner reimburses the county or city for those expenses  
12 under sections 3 through 9 of this act except for those moneys  
13 deposited pursuant to RCW 36.110.110.

14        NEW SECTION.    **Sec. 10.** (1) The administrator of the county jail or  
15 authorized staff may consent as provided in this section to the  
16 provision of health and dental examinations and care, and necessary  
17 treatment for medical and dental conditions requiring prompt attention,  
18 for juveniles lawfully detained at or sentenced to a county jail. The  
19 treatment may include treatment provided at medical or dental  
20 facilities outside the county jail and treatment provided within the  
21 county jail for the period of time the youth is in the custody of the  
22 county jail. Juveniles shall not be transported for treatment outside  
23 the county jail if treatment services are available within the county  
24 jail.

25           (2) The examination, care, and treatment may be provided without  
26 parental consent when prompt attention is required if the administrator  
27 of the county jail or authorized staff have been unable to secure  
28 permission for treatment from the parent or parents, guardian, or other  
29 person having custody of the child after reasonable attempts to do so  
30 before the provision of the medical and dental services.

31           (3) Treatment shall not be authorized for juveniles whose parent or  
32 parents, guardian, or other person having custody of the child informs  
33 the administrator of the county jail of objections to the treatment  
34 before the treatment is provided except where RCW 70.96A.095 applies.

35        **Sec. 11.** RCW 10.01.160 and 1995 c 221 s 1 are each amended to read  
36 as follows:

1 (1) The court may require a defendant to pay costs. Costs may be  
2 imposed only upon a convicted defendant, except for costs imposed upon  
3 a defendant's entry into a deferred prosecution program or costs  
4 imposed upon a defendant for preparing and serving a warrant for  
5 failure to appear.

6 (2) Costs shall be limited to expenses specially incurred by the  
7 state in prosecuting the defendant or in administering the deferred  
8 prosecution program under chapter 10.05 RCW. They cannot include  
9 expenses inherent in providing a constitutionally guaranteed jury trial  
10 or expenditures in connection with the maintenance and operation of  
11 government agencies that must be made by the public irrespective of  
12 specific violations of law. Expenses incurred for serving of warrants  
13 for failure to appear and jury fees under RCW 10.46.190 may be included  
14 in costs the court may require a defendant to pay. Costs for  
15 administering a deferred prosecution may not exceed one hundred fifty  
16 dollars. Costs for preparing and serving a warrant for failure to  
17 appear may not exceed one hundred dollars. ~~((Costs of incarceration  
18 imposed on a defendant convicted of a misdemeanor or a gross  
19 misdemeanor may not exceed fifty dollars per day of incarceration.))~~  
20 Payment of other court-ordered financial obligations, including all  
21 legal financial obligations and costs of supervision take precedence  
22 over the payment of the cost of incarceration ~~((ordered by the court))~~  
23 pursuant to sections 3 and 6 of this act. Except for funds deposited  
24 pursuant to RCW 36.110.110, all funds received from defendants for the  
25 cost of incarceration in the county or city jail must be remitted for  
26 ~~((criminal justice))~~ jail operation purposes to the county or city that  
27 is responsible for the defendant's jail costs. Costs imposed  
28 constitute a judgment against a defendant and survive a dismissal of  
29 the underlying action against the defendant. However, if the defendant  
30 is acquitted on the underlying action, the costs for preparing and  
31 serving a warrant for failure to appear do not survive the acquittal,  
32 and the judgment that such costs would otherwise constitute shall be  
33 vacated.

34 (3) The court shall not sentence a defendant to pay costs unless  
35 the defendant is or will be able to pay them. In determining the  
36 amount and method of payment of costs, the court shall take account of  
37 the financial resources of the defendant and the nature of the burden  
38 that payment of costs will impose.

1 (4) A defendant who has been sentenced to pay costs and who is not  
2 in contumacious default in the payment thereof may at any time petition  
3 the sentencing court for remission of the payment of costs or of any  
4 unpaid portion thereof. If it appears to the satisfaction of the court  
5 that payment of the amount due will impose manifest hardship on the  
6 defendant or the defendant's immediate family, the court may remit all  
7 or part of the amount due in costs, or modify the method of payment  
8 under RCW 10.01.170.

9 **Sec. 12.** RCW 9.94A.145 and 1997 c 121 s 5 and 1997 c 52 s 3 are  
10 each reenacted and amended to read as follows:

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

25 (~~(If the court determines that the offender, at the time of~~  
26 ~~sentencing, has the means to pay for the cost of incarceration, the~~  
27 ~~court may require the offender to pay for the cost of incarceration at~~  
28 ~~a rate of fifty dollars per day of incarceration.))~~ Payment of other  
29 court-ordered financial obligations, including all legal financial  
30 obligations and costs of supervision shall take precedence over the  
31 payment of the cost of incarceration (~~(ordered by the court)~~) pursuant  
32 to sections 3 and 6 of this act. All funds recovered from offenders  
33 for the cost of incarceration in the county jail shall be remitted to  
34 the county and the costs of incarceration in a prison shall be remitted  
35 to the department of corrections.

36 (3) The court may add to the judgment and sentence or subsequent  
37 order to pay a statement that a notice of payroll deduction is to be  
38 immediately issued. If the court chooses not to order the immediate

1 issuance of a notice of payroll deduction at sentencing, the court  
2 shall add to the judgment and sentence or subsequent order to pay a  
3 statement that a notice of payroll deduction may be issued or other  
4 income-withholding action may be taken, without further notice to the  
5 offender if a monthly court-ordered legal financial obligation payment  
6 is not paid when due, and an amount equal to or greater than the amount  
7 payable for one month is owed.

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

15 (4) All legal financial obligations that are ordered as a result of  
16 a conviction for a felony, may also be enforced in the same manner as  
17 a judgment in a civil action by the party or entity to whom the legal  
18 financial obligation is owed. Restitution collected through civil  
19 enforcement must be paid through the registry of the court and must be  
20 distributed proportionately according to each victim's loss when there  
21 is more than one victim. The judgment and sentence shall identify the  
22 party or entity to whom restitution is owed so that the state, party,  
23 or entity may enforce the judgment. If restitution is ordered pursuant  
24 to RCW 9.94A.140(3) or 9.94A.142(3) to a victim of rape of a child and  
25 the victim's child born from the rape, the Washington state child  
26 support registry shall be identified as the party to whom payments must  
27 be made. Restitution obligations arising from the rape of a child in  
28 the first, second, or third degree that result in the pregnancy of the  
29 victim may be enforced for the time periods provided under RCW  
30 9.94A.140(3) and 9.94A.142(3). All other legal financial obligations  
31 may be enforced at any time during the ten-year period following the  
32 offender's release from total confinement or within ten years of entry  
33 of the judgment and sentence, whichever period is longer. Prior to the  
34 expiration of the initial ten-year period, the superior court may  
35 extend the criminal judgment an additional ten years for payment of  
36 legal financial obligations including crime victims' assessments. If  
37 jurisdiction under the criminal judgment is extended, the department is  
38 not responsible for supervision of the offender during the subsequent  
39 period. Independent of the department, the party or entity to whom the

1 legal financial obligation is owed shall have the authority to utilize  
2 any other remedies available to the party or entity to collect the  
3 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. 13.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are  
14 each reenacted and amended to read as follows:

15 Alternatives to total confinement are available for offenders with  
16 sentences of one year or less. These alternatives include the  
17 following sentence conditions that the court may order as substitutes  
18 for total confinement:

19 (1) One day of partial confinement may be substituted for one day  
20 of total confinement;

21 (2) In addition, for offenders convicted of nonviolent offenses  
22 only, eight hours of community service may be substituted for one day  
23 of total confinement, with a maximum conversion limit of two hundred  
24 forty hours or thirty days. Community service hours must be completed  
25 within the period of community supervision or a time period specified  
26 by the court, which shall not exceed twenty-four months, pursuant to a  
27 schedule determined by the department; and

28 (3) For offenders convicted of nonviolent and nonsex offenses,  
29 unless the court prohibits use of jail confinement options, the county  
30 jails are authorized to convert jail confinement to an available county  
31 supervised community option.

32 For sentences of nonviolent offenders for one year or less, the  
33 court shall consider and give priority to available alternatives to  
34 total confinement and shall state its reasons in writing on the  
35 judgment and sentence form if the alternatives are not used.

1        NEW SECTION.    **Sec. 14.**    RCW 72.01.415 (Offender under eighteen  
2 confined to a jail--Segregation from adult offenders) and 1997 c 338 s  
3 42 are each repealed.

4        NEW SECTION.    **Sec. 15.**    Sections 1 and 3 through 10 of this act are  
5 each added to chapter 70.48 RCW.

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