

# SENATE BILL REPORT

## SSB 5168

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As Passed Senate, February 3, 2004

**Title:** An act relating to interest on legal financial obligations.

**Brief Description:** Authorizing reduction of interest on legal financial obligations.

**Sponsors:** Senate Committee on Children & Family Services & Corrections (originally sponsored by Senator Hargrove).

**Brief History:**

**Committee Activity:** Children & Family Services & Corrections: 1/31/03, 2/11/03 [DPS].  
Passed Senate: 3/10/03, 48-0; 2/3/04, 48-0.

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### SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5168 be substituted therefor, and the substitute bill do pass.

Signed by Senators Stevens, Chair; Parlette, Vice Chair; Carlson, Hargrove, McAuliffe and Regala.

**Staff:** Fara Daun (786-7459)

**Background:** Under current law, certain offenders are subject to court ordered legal financial obligations. These include victim restitution and certain court and trial costs. These legal financial obligations are subject to interest on the principal amount. The interest does not compound. By statute, legal financial obligations are paid in the following order: victim restitution, other legal financial obligations, interest on restitution, then other interest. In some cases, the amount of the obligations is so substantial that the monthly interest exceeds the monthly payment and it becomes impossible for the offender to satisfy the obligation. Concerns have been raised that there is little mechanism available to the courts to provide offenders an incentive to pay the principal in these cases with the result that victims receive no restitution payments.

**Summary of Bill:** When an offender has personally made a good faith effort to pay his or her legal financial obligations, he or she may petition the court to reduce or waive the interest on legal financial obligations other than the interest on restitution. A good faith effort to pay means that the offender has either paid the principal amount in full or has made 24 consecutive payments, excluding any automatic deductions taken by the Department of Corrections, under his or her payment agreement with the court.

To obtain relief from the interest, the offender's petition must show:

- the good faith effort to pay;
- the interest accrual is causing a significant hardship;
- that he or she will be unable to pay the total interest and principal in full; and

- reduction or waiver will likely enable the offender to pay the principal and any remaining interest.

The court may reduce or waive the interest as an incentive for the offender to pay the principal. The court may not waive interest on the restitution principal. It may only reduce interest on the restitution principal after the principal is paid in full. The court may establish a payment schedule and retain jurisdiction over the offender for purposes of reviewing and revising the reduction or waiver of interest.

This applies to both juvenile and adult offenders.

**Appropriation:** None.

**Fiscal Note:** Requested on January 28, 2003.

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

**Testimony For:** This is a product of the LFO workgroup that met over the interim. It addresses the need for courts to have a certain amount of discretion to address the individual circumstances of offenders with large legal financial obligations. It is believed that this legislation will provide incentives for making the payments in a timely manner. There were concerns that, as drafted, it could cause a large number of waiver hearings two years from the effective date and an amendment was proposed. Courts should have some authority to revisit the restitution obligation and need to fashion remedies appropriate to individual circumstances.

**Testimony Against:** There is concern that judicial discretion not be limited and that judges should have the ability to close out cases if appropriate.

**Testified:** Anita Paulsen, Washington Defender Assoc., Washington Assoc. of Criminal Defense Attorneys (concerns); Rena Hollis, Washington State Assoc. of County Clerks (pro); Pam Daniels, Washington State Assoc. of County Clerks (pro); Hon. Steve Warning, Cowlitz Co. Superior Court (pro); Russ Hauge, Kitsap Co. Prosecuting Attorney/WAPA (pro); Hon. Leonard Costello, Kitsap Co. Superior Court, Superior Court Judges Association (pro).

**House Amendment(s):** SSB 6588 is added in its entirety to the underlying bill. SSB 6588 creates a process for restoring civil rights to those offenders that Department of Corrections is unable to verify completion of their court-ordered conditions. It also grants the county clerk access to employment security records to verify employment or income or pursue collection and makes corrections that were discovered to be necessary during the implementation of SB 5990 that transferred collection responsibility to county clerks.