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**SUBSTITUTE SENATE BILL 6588**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** Senate Committee on Children & Family Services & Corrections  
(originally sponsored by Senators Hargrove and Stevens)

READ FIRST TIME 02/06/04.

1       AN ACT Relating to amendments to the legal financial obligation  
2 provisions of chapter 379, Laws of 2003; and amending RCW 9.94A.637,  
3 9.94A.760, 9.94A.772, and 50.13.020.

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

5       **Sec. 1.** RCW 9.94A.637 and 2003 c 379 s 19 are each amended to read  
6 as follows:

7       (1)(a) When an offender has completed all requirements of the  
8 sentence, including any and all legal financial obligations, and while  
9 under the custody and supervision of the department, the secretary or  
10 the secretary's designee shall notify the sentencing court, which shall  
11 discharge the offender and provide the offender with a certificate of  
12 discharge by issuing the certificate to the offender in person or by  
13 mailing the certificate to the offender's last known address.

14       (b)(i) When an offender has reached the end of his or her  
15 supervision with the department and has completed all the requirements  
16 of the sentence except his or her legal financial obligations, the  
17 secretary's designee shall provide the county clerk with a notice that  
18 the offender has completed all nonfinancial requirements of the  
19 sentence.

1 (ii) When the department has provided the county clerk with notice  
2 that an offender has completed all the requirements of the sentence and  
3 the offender subsequently satisfies all legal financial obligations  
4 under the sentence, the county clerk shall notify the sentencing court,  
5 including the notice from the department, which shall discharge the  
6 offender and provide the offender with a certificate of discharge by  
7 issuing the certificate to the offender in person or by mailing the  
8 certificate to the offender's last known address.

9 (c) When an offender who is subject to requirements of the sentence  
10 in addition to the payment of legal financial obligations either is not  
11 subject to supervision by the department or does not complete the  
12 requirements while under supervision of the department, it is the  
13 offender's responsibility to provide the court with verification of the  
14 completion of the sentence conditions other than the payment of legal  
15 financial obligations. When the offender satisfies all legal financial  
16 obligations under the sentence, the county clerk shall notify the  
17 sentencing court that the legal financial obligations have been  
18 satisfied. When the court has received both notification from the  
19 clerk and adequate verification from the offender that the sentence  
20 requirements have been completed, the court shall discharge the  
21 offender and provide the offender with a certificate of discharge by  
22 issuing the certificate to the offender in person or by mailing the  
23 certificate to the offender's last known address.

24 (2) The court shall send a copy of every signed certificate of  
25 discharge to the auditor for the county in which the court resides and  
26 to the department. The department shall create and maintain a data  
27 base containing the names of all felons who have been issued  
28 certificates of discharge, the date of discharge, and the date of  
29 conviction and offense.

30 (3) An offender who is not convicted of a violent offense or a sex  
31 offense and is sentenced to a term involving community supervision may  
32 be considered for a discharge of sentence by the sentencing court prior  
33 to the completion of community supervision, provided that the offender  
34 has completed at least one-half of the term of community supervision  
35 and has met all other sentence requirements.

36 (4) Except as provided in subsection (5) of this section, the  
37 discharge shall have the effect of restoring all civil rights lost by  
38 operation of law upon conviction, and the certificate of discharge

1 shall so state. Nothing in this section prohibits the use of an  
2 offender's prior record for purposes of determining sentences for later  
3 offenses as provided in this chapter. Nothing in this section affects  
4 or prevents use of the offender's prior conviction in a later criminal  
5 prosecution either as an element of an offense or for impeachment  
6 purposes. A certificate of discharge is not based on a finding of  
7 rehabilitation.

8 (5) Unless otherwise ordered by the sentencing court, a certificate  
9 of discharge shall not terminate the offender's obligation to comply  
10 with an order issued under chapter 10.99 RCW that excludes or prohibits  
11 the offender from having contact with a specified person or coming  
12 within a set distance of any specified location that was contained in  
13 the judgment and sentence. An offender who violates such an order  
14 after a certificate of discharge has been issued shall be subject to  
15 prosecution according to the chapter under which the order was  
16 originally issued.

17 (6) Upon release from custody, the offender may apply to the  
18 department for counseling and help in adjusting to the community. This  
19 voluntary help may be provided for up to one year following the release  
20 from custody.

21 **Sec. 2.** RCW 9.94A.760 and 2003 c 379 s 14 are each amended to read  
22 as follows:

23 (1) Whenever a person is convicted (~~(of a felony)~~) in superior  
24 court, the court may order the payment of a legal financial obligation  
25 as part of the sentence. The court must on either the judgment and  
26 sentence or on a subsequent order to pay, designate the total amount of  
27 a legal financial obligation and segregate this amount among the  
28 separate assessments made for restitution, costs, fines, and other  
29 assessments required by law. On the same order, the court is also to  
30 set a sum that the offender is required to pay on a monthly basis  
31 towards satisfying the legal financial obligation. If the court fails  
32 to set the offender monthly payment amount, the department shall set  
33 the amount if the department has active supervision of the offender,  
34 otherwise the county clerk shall set the amount. Upon receipt of an  
35 offender's monthly payment, restitution shall be paid prior to any  
36 payments of other monetary obligations. After restitution is

1 satisfied, the county clerk shall distribute the payment proportionally  
2 among all other fines, costs, and assessments imposed, unless otherwise  
3 ordered by the court.

4 (2) If the court determines that the offender, at the time of  
5 sentencing, has the means to pay for the cost of incarceration, the  
6 court may require the offender to pay for the cost of incarceration at  
7 a rate of fifty dollars per day of incarceration. Payment of other  
8 court-ordered financial obligations, including all legal financial  
9 obligations and costs of supervision shall take precedence over the  
10 payment of the cost of incarceration ordered by the court. All funds  
11 recovered from offenders for the cost of incarceration in the county  
12 jail shall be remitted to the county and the costs of incarceration in  
13 a prison shall be remitted to the department.

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

24 If a judgment and sentence or subsequent order to pay does not  
25 include the statement that a notice of payroll deduction may be issued  
26 or other income-withholding action may be taken if a monthly legal  
27 financial obligation payment is past due, the department or the county  
28 clerk may serve a notice on the offender stating such requirements and  
29 authorizations. Service shall be by personal service or any form of  
30 mail requiring a return receipt.

31 (4) Independent of the department or the county clerk, the party or  
32 entity to whom the legal financial obligation is owed shall have the  
33 authority to use any other remedies available to the party or entity to  
34 collect the legal financial obligation. These remedies include  
35 enforcement in the same manner as a judgment in a civil action by the  
36 party or entity to whom the legal financial obligation is owed.  
37 Restitution collected through civil enforcement must be paid through  
38 the registry of the court and must be distributed proportionately

1 according to each victim's loss when there is more than one victim.  
2 The judgment and sentence shall identify the party or entity to whom  
3 restitution is owed so that the state, party, or entity may enforce the  
4 judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or  
5 9.94A.753(6) to a victim of rape of a child or a victim's child born  
6 from the rape, the Washington state child support registry shall be  
7 identified as the party to whom payments must be made. Restitution  
8 obligations arising from the rape of a child in the first, second, or  
9 third degree that result in the pregnancy of the victim may be enforced  
10 for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6).  
11 All other legal financial obligations for an offense committed prior to  
12 July 1, 2000, may be enforced at any time during the ten-year period  
13 following the offender's release from total confinement or within ten  
14 years of entry of the judgment and sentence, whichever period ends  
15 later. Prior to the expiration of the initial ten-year period, the  
16 superior court may extend the criminal judgment an additional ten years  
17 for payment of legal financial obligations including crime victims'  
18 assessments. All other legal financial obligations for an offense  
19 committed on or after July 1, 2000, may be enforced at any time the  
20 offender remains under the court's jurisdiction. For an offense  
21 committed on or after July 1, 2000, the court shall retain jurisdiction  
22 over the offender, for purposes of the offender's compliance with  
23 payment of the legal financial obligations, until the obligation is  
24 completely satisfied, regardless of the statutory maximum for the  
25 crime. The department may only supervise the offender's compliance  
26 with payment of the legal financial obligations during any period in  
27 which the department is authorized to supervise the offender in the  
28 community under RCW 9.94A.728, 9.94A.501, or in which the offender is  
29 confined in a state correctional institution or a correctional facility  
30 pursuant to a transfer agreement with the department, and the  
31 department shall supervise the offender's compliance during any such  
32 period. The department is not responsible for supervision of the  
33 offender during any subsequent period of time the offender remains  
34 under the court's jurisdiction. The county clerk is authorized to  
35 collect unpaid legal financial obligations at any time the offender  
36 remains under the jurisdiction of the court for purposes of his or her  
37 legal financial obligations.

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

9 (6) After completing the investigation, the department shall make  
10 a report to the court on the amount of the monthly payment that the  
11 offender should be required to make towards a satisfied legal financial  
12 obligation.

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

27 (b) Subsequent to any period of supervision, or if the department  
28 is not authorized to supervise the offender in the community, the  
29 county clerk may make a recommendation to the court that the offender's  
30 monthly payment schedule be modified so as to reflect a change in  
31 financial circumstances. If the county clerk sets the monthly payment  
32 amount, or if the department set the monthly payment amount and the  
33 department has subsequently turned the collection of the legal  
34 financial obligation over to the county clerk, the clerk may modify the  
35 monthly payment amount without the matter being returned to the court.  
36 During the period of repayment, the county clerk may require the  
37 offender to report to the clerk for the purpose of reviewing the  
38 appropriateness of the collection schedule for the legal financial

1 obligation. During this reporting, the offender is required under oath  
2 to respond truthfully and honestly to all questions concerning earning  
3 capabilities and the location and nature of all property or financial  
4 assets. The offender shall bring all documents requested by the county  
5 clerk in order to prepare the collection schedule.

6 (8) After the judgment and sentence or payment order is entered,  
7 the department is authorized, for any period of supervision, to collect  
8 the legal financial obligation from the offender. Subsequent to any  
9 period of supervision or, if the department is not authorized to  
10 supervise the offender in the community, the county clerk is authorized  
11 to collect unpaid legal financial obligations from the offender. Any  
12 amount collected by the department shall be remitted daily to the  
13 county clerk for the purpose of disbursements. The department and the  
14 county clerks are authorized, but not required, to accept credit cards  
15 as payment for a legal financial obligation, and any costs incurred  
16 related to accepting credit card payments shall be the responsibility  
17 of the offender.

18 (9) The department or any obligee of the legal financial obligation  
19 may seek a mandatory wage assignment for the purposes of obtaining  
20 satisfaction for the legal financial obligation pursuant to RCW  
21 9.94A.7701. Any party obtaining a wage assignment shall notify the  
22 county clerk. The county clerks shall notify the department, or the  
23 administrative office of the courts, whichever is providing the monthly  
24 billing for the offender.

25 (10) The requirement that the offender pay a monthly sum towards a  
26 legal financial obligation constitutes a condition or requirement of a  
27 sentence and the offender is subject to the penalties for noncompliance  
28 as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

29 (11)(a) Until January 1, 2004, the department shall mail  
30 individualized monthly billings to the address known by the department  
31 for each offender with an unsatisfied legal financial obligation.

32 (b) Beginning January 1, 2004, the administrative office of the  
33 courts shall mail individualized monthly billings to the address known  
34 by the office for each offender with an unsatisfied legal financial  
35 obligation.

36 (c) The billing shall direct payments, other than outstanding cost  
37 of supervision assessments under RCW 9.94A.780, parole assessments

1 under RCW 72.04A.120, and cost of probation assessments under RCW  
2 9.95.214, to the county clerk, and cost of supervision, parole, or  
3 probation assessments to the department.

4 (d) The county clerk shall provide the administrative office of the  
5 courts with notice of payments by such offenders no less frequently  
6 than weekly.

7 (e) The county clerks, the administrative office of the courts, and  
8 the department shall maintain agreements to implement this subsection.

9 (12) The department shall arrange for the collection of unpaid  
10 legal financial obligations during any period of supervision in the  
11 community through the county clerk. The department shall either  
12 collect unpaid legal financial obligations or arrange for collections  
13 through another entity if the clerk does not assume responsibility or  
14 is unable to continue to assume responsibility for collection pursuant  
15 to subsection (4) of this section. The costs for collection services  
16 shall be paid by the offender.

17 (13) The county clerk may access the records of the employment  
18 security department for the purposes of verifying employment or income,  
19 seeking any assignment of wages, or performing other duties necessary  
20 to the collection of an offender's legal financial obligations.

21 (14) Nothing in this chapter makes the department, the state, the  
22 counties, or any state or county employees, agents, or other persons  
23 acting on their behalf liable under any circumstances for the payment  
24 of these legal financial obligations or for the acts of any offender  
25 who is no longer, or was not, subject to supervision by the department  
26 for a term of community custody, community placement, or community  
27 supervision, and who remains under the jurisdiction of the court for  
28 payment of legal financial obligations.

29 **Sec. 3.** RCW 9.94A.772 and 2003 c 379 s 22 are each amended to read  
30 as follows:

31 Notwithstanding any other provision of state law, monthly payment  
32 or starting dates set by the court, the county clerk, or the department  
33 before or after October 1, 2003, shall not be construed as a limitation  
34 on the due date or amount of legal financial obligations, which may be  
35 immediately collected by civil means and shall not be construed as a  
36 limitation for purposes of credit reporting. Monthly payments and

1 commencement dates are to be construed to be applicable solely as a  
2 limitation upon the deprivation of an offender's liberty for  
3 nonpayment.

4 **Sec. 4.** RCW 50.13.020 and 1981 c 35 s 2 are each amended to read  
5 as follows:

6 Any information or records concerning an individual or employing  
7 unit obtained by the department of employment security pursuant to the  
8 administration of this title or other programs for which the department  
9 has responsibility shall be private and confidential, except as  
10 otherwise provided in this chapter. This chapter does not create a  
11 rule of evidence. Information or records may be released by the  
12 department of employment security when the release is:

13 (1) Required by the federal government in connection with, or as a  
14 condition of funding for, a program being administered by the  
15 department; or

16 (2) Requested by a county clerk for the purposes of RCW 9.94A.760.

17 The provisions of RCW 50.13.060 (1) (a), (b) and (c) will not apply  
18 to such release.

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