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SENATE BILL 6588

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State of Washington

58th Legislature

2004 Regular Session

By Senators Hargrove and Stevens

Read first time 01/26/2004. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to technical, clarifying, and nonsubstantive  
2 amendments to the legal financial obligation provisions of Engrossed  
3 Substitute Senate Bill No. 5990; and amending RCW 9.94A.637, 9.94A.760,  
4 and 9.94A.772.

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

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

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

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

1 the offender has completed all nonfinancial requirements of the  
2 sentence.

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

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

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

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

1 (4) Except as provided in subsection (5) of this section, the  
2 discharge shall have the effect of restoring all civil rights lost by  
3 operation of law upon conviction, and the certificate of discharge  
4 shall so state. Nothing in this section prohibits the use of an  
5 offender's prior record for purposes of determining sentences for later  
6 offenses as provided in this chapter. Nothing in this section affects  
7 or prevents use of the offender's prior conviction in a later criminal  
8 prosecution either as an element of an offense or for impeachment  
9 purposes. A certificate of discharge is not based on a finding of  
10 rehabilitation.

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

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

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

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

1 offender's monthly payment, restitution shall be paid prior to any  
2 payments of other monetary obligations. After restitution is  
3 satisfied, the county clerk shall distribute the payment proportionally  
4 among all other fines, costs, and assessments imposed, unless otherwise  
5 ordered by the court.

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

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

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

33 (4) Independent of the department or the county clerk, the party or  
34 entity to whom the legal financial obligation is owed shall have the  
35 authority to use any other remedies available to the party or entity to  
36 collect the legal financial obligation. These remedies include  
37 enforcement in the same manner as a judgment in a civil action by the  
38 party or entity to whom the legal financial obligation is owed.

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

1 remains under the jurisdiction of the court for purposes of his or her  
2 legal financial obligations.

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

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

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

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

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

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

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

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

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

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

1 (c) The billing shall direct payments, other than outstanding cost  
2 of supervision assessments under RCW 9.94A.780, parole assessments  
3 under RCW 72.04A.120, and cost of probation assessments under RCW  
4 9.95.214, to the county clerk, and cost of supervision, parole, or  
5 probation assessments to the department.

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

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

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

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

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

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



1 limitation upon the deprivation of an offender's liberty for  
2 nonpayment.

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