

SENATE BILL REPORT

HB 1058

As of February 7, 2018

Title: An act relating to court-ordered restitution.

Brief Description: Changing provisions relating to court-ordered restitution in certain criminal cases.

Sponsors: Representative MacEwen.

Brief History: Passed House: 3/08/17, 97-0; 1/24/18, 96-0.

Committee Activity: Law & Justice: 3/15/17, 3/29/17 [DPA, w/oRec]; 2/07/18.

Brief Summary of Bill

- Prohibits the court from postponing the commencement of victim restitution payments until after the offender is released from confinement.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Frockt and Wilson.

Minority Report: That it be referred without recommendation.

Signed by Senator Darneille.

Staff: Shani Bauer (786-7468)

Background: Restitution. When a defendant is convicted of a crime, the court may impose legal financial obligations as part of the judgment and sentence, including victim restitution. Restitution must be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for medical treatment, and lost wages. At the time of the restitution order, the court must set a minimum monthly payment the offender is required to make towards the restitution that is ordered, taking into consideration the total amount owed, the offender's ability to pay, and any assets the offender might have.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Judgments for financial obligations in criminal proceedings bear interest from the date of judgment at the same rate that is applicable to civil judgments. The rate of interest generally applicable to civil judgments is the greater of 12 percent or four points above the 26-week treasury bill rate. As a result of low treasury bill rates, 12 percent has been the applicable interest rate on criminal financial obligation judgments for almost two decades. Interest that accrues on the restitution portion of the financial obligation is paid to the victim of the offense.

If an offender willfully fails to make payment towards the offender's legal financial obligations as ordered, the court may impose various types of penalties, including confinement, conversion of partial confinement to total confinement, or non-confinement sanctions.

Correctional Industries. The Department of Corrections (DOC) provides inmate work programs through its Correctional Industries Division. There are five classes of correctional industry work programs. All inmates working in Class I–IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is performed for the benefit of the community without financial compensation.

Class I—free venture—industries allow private sector companies to operate within state correctional facilities to produce goods or services for sale to the public or private sector. Class II—tax reduction—industries are state-owned and operated industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations.

DOC deducts taxes and legal financial obligations from the wages inmates earn while working in Correctional Industries employment.

Summary of Bill: The court may not issue any order that postpones the commencement of restitution payments until after the offender is released from total confinement. An offender's inability to make restitution payments while in total confinement may not be the basis for a violation of the offender's sentence unless the offender's inability to make payments resulted from a refusal to accept an employment offer to a Class I or Class II job or a termination for cause from such a job.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: A crime of assault resulting in substantial injury is financially devastating to the victim and the victim's family. We incurred medical bills far beyond our ability to pay and my husband was unable to work during that time. We lost everything, including our home. This leaves a victim responsible for a

financial burden that they had no part in creating. Anything that can be done to ensure that restitution is paid to the victim should be done.

CON: This bill does not change the mechanics of how restitution is collected and paid. DOC collects restitution regardless of the payment amount in the court order.

Persons Testifying: PRO: Debbie Teel, citizen; North Teel, citizen.

CON: Bob Cooper, Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.

Staff Summary of Public Testimony: PRO: This bill is prioritizing victim compensation over anything else. The impact of a crime can be devastating. A victim's family can lose their home, business, and savings accounts in a matter of minutes. Medical costs can also be substantial. The financial repercussions of something that isn't the victim's fault is overwhelming. Even the smallest amount of restitution to victims is helpful.

CON: Under existing state law, restitution is required to come first. That is not what happens. There is another bill that addresses this issue to make sure restitution is paid first. If someone does not have money when they enter prison it is unlikely that they will make a significant dent in their legal financial obligations while incarcerated. DOC already collects from an inmate's account whether they have a job in correctional industries or whether money comes into the account from another source. There is no way for county clerks to know whether a person refused a correctional industries job. Failure to comply with a payment plan results in county clerks issuing warrants for offenders who may be in prison. This will affect the offender's ability to participate in programming while in prison.

Persons Testifying: PRO: Representative Drew MacEwen, Prime Sponsor; Debbie and North Teel, citizens.

CON: Bob Cooper, Washington Association of Criminal Defense Lawyers, Washington Defender Association.

Persons Signed In To Testify But Not Testifying: No one.