
SENATE BILL 5647

State of Washington **56th Legislature** **1999 Regular Session**

By Senators Costa, Roach, Heavey, Sheahan and Oke

Read first time 02/01/1999. Referred to Committee on Judiciary.

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 for confinement at a county or regional jail, and
7 not released upon completion of the booking process, pay a fee of ten
8 dollars to the sheriff's department of the county in which the jail is
9 located. The fee is payable immediately from any money then possessed
10 by the person being booked, or any money deposited with the sheriff's
11 department on the person's behalf. If the person has no funds at the
12 time of booking or during the period of incarceration, the sheriff
13 shall notify the district court in the county where the charges related
14 to the booking are pending, and shall request the assessment of the
15 fee. Upon notification from the sheriff, the district court must order
16 the fee paid to the sheriff's department as part of any sentence or
17 disposition imposed. If the person is not charged, is acquitted, or if
18 the charges are dismissed, the sheriff shall return the fee to the
19 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.

26 NEW SECTION. Sec. 4. (1) Before a governing unit may request
27 reimbursement from a prisoner, the governing unit must conduct an
28 investigation of the financial status of the prisoner.

29 (2) For the purpose of determining the financial status of a
30 prisoner, the governing unit shall require the prisoner to complete and
31 sign a form under penalty of perjury. The form must contain provisions
32 for determining:

33 (a) The age, sex, and marital status of the prisoner;

34 (b) The number and ages of the children or other dependents of the
35 prisoner; and

1 (c) The type and value of any real estate, personal property,
2 investments, pensions, annuities, bank accounts, cash, or other
3 property of value owned or possessed by the prisoner.

4 NEW SECTION. **Sec. 5.** If a governing unit so requests, the sheriff
5 of the county, or the administrator of the department of detention of
6 a county or an incorporated city or the person appointed to administer
7 a city jail, shall provide to the governing unit a list that contains:

8 (1) The name of each prisoner currently serving a term of
9 imprisonment in the county or city jail or detention facility;

10 (2) The length of the term of imprisonment of each prisoner,
11 including the number of days served during a period of pretrial
12 detention, if any;

13 (3) The date of admission of each prisoner; and

14 (4) All available information concerning the financial status of
15 each prisoner.

16 NEW SECTION. **Sec. 6.** (1) At any time after the conviction of a
17 prisoner, and after the financial status of the prisoner has been
18 determined or the prisoner has refused or failed to complete and sign
19 the form required by section 4 of this act, the sheriff of the county,
20 or the administrator of the department of detention or the person
21 appointed to administer a city jail, may issue a written demand to the
22 prisoner for reimbursement of the expenses incurred by the county or
23 city for the prisoner's maintenance and support during his period of
24 imprisonment.

25 (2) Except as otherwise provided in section 7(4) of this act, the
26 prisoner shall pay the total amount due when the written demand is
27 issued. The prisoner may arrange to make payments on a monthly basis.
28 If such arrangements are made, the prisoner must be provided with a
29 monthly billing statement that specifies the date on which the next
30 payment is due.

31 (3) If the prisoner does not satisfy the written demand for
32 reimbursement within the time set, the prosecuting attorney for a
33 county or the city attorney for an incorporated city may file a civil
34 action under section 7 of this act.

35 NEW SECTION. **Sec. 7.** (1) If a prisoner fails to make a payment
36 within ten days after it is due, the county prosecutor or the city

1 attorney for an incorporated city may file a civil action in a court of
2 competent jurisdiction within this state seeking recovery of:

3 (a) The amount of reimbursement due;

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

6 (c) Attorneys' fees and costs.

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

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

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

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

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

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

17 (3) The treasurer of the governing unit in which a prisoner is or
18 was confined shall determine the amount of reimbursement that the
19 prisoner owes to the governing unit. The treasurer may render a sworn
20 statement indicating the amount of reimbursement that the prisoner owes
21 and submit the statement in support of a civil action brought under
22 this section. The statement is prima facie evidence of the amount due.

23 (4) A court in a civil action brought under this section may award
24 a money judgment in favor of the governing unit in whose name the
25 action was brought. A court may order a prisoner to perform supervised
26 work for the benefit of the community to satisfy the written demand for
27 reimbursement under section 6 of this act. Each hour of work performed
28 by the prisoner reduces the amount owed by eight dollars.

29 (5) If necessary to prevent the disposition of the prisoner's
30 property by the prisoner, or the prisoner's spouse or agent, a
31 governing unit may file a motion for a temporary restraining order.
32 The court may, without a hearing, issue ex parte orders restraining
33 any person from transferring, encumbering, hypothecating, concealing,
34 or in any way disposing of any property of the prisoner, real or
35 personal, whether community or separate, except for necessary living
36 expenses.

37 (6) The payment, under a judicial order, of existing obligations
38 for:

39 (a) Child support or alimony;

1 (b) Restitution to victims of crimes; and
2 (c) Court-ordered legal financial obligations pursuant to RCW
3 9.94A.145;

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

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

8 NEW SECTION. **Sec. 8.** (1) A prisoner who is or was sentenced to a
9 term of imprisonment in a county or city jail or detention facility
10 shall cooperate with the governing unit in satisfying the reimbursement
11 sought by the governing unit under sections 3 through 10 of this act.

12 (2) A prisoner who willfully refuses to cooperate with the
13 requirement of section 2 of this act may not receive a reduction of or
14 a credit on his term of imprisonment under this chapter.

15 NEW SECTION. **Sec. 9.** The sheriff of the county or the
16 administrator of the department of detention or a person chosen to
17 administer a city jail shall provide the prosecuting attorney of the
18 county or the city attorney of the incorporated city all information
19 and assistance possible to enable the prosecutor or city attorney to
20 secure reimbursement for the county or city under sections 3 through 10
21 of this act.

22 NEW SECTION. **Sec. 10.** Reimbursements secured or otherwise
23 obtained by a local legislative authority under sections 3 through 10
24 of this act must be credited to the general fund of the county or city.
25 If:

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

29 (2) The prisoner reimburses the county or city for those expenses
30 under sections 3 through 10 of this act,
31 the county or city shall reimburse the governmental entity for its
32 payment to the extent of the amount received from the prisoner.

33 NEW SECTION. **Sec. 11.** (1) The administrator of the county jail or
34 authorized staff may consent as provided in this section to the
35 provision of health and dental examinations and care, and necessary

1 treatment for medical and dental conditions requiring prompt attention,
2 for juveniles lawfully detained at or sentenced to a county jail. The
3 treatment may include treatment provided at medical or dental
4 facilities outside the county jail and treatment provided within the
5 county jail for the period of time the youth is in the custody of the
6 county jail. Juveniles shall not be transported for treatment outside
7 the county jail if treatment services are available within the county
8 jail.

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

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

19 **Sec. 12.** RCW 10.01.160 and 1995 c 221 s 1 are each amended to read
20 as follows:

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

26 (2) Costs shall be limited to expenses specially incurred by the
27 state in prosecuting the defendant or in administering the deferred
28 prosecution program under chapter 10.05 RCW. They cannot include
29 expenses inherent in providing a constitutionally guaranteed jury trial
30 or expenditures in connection with the maintenance and operation of
31 government agencies that must be made by the public irrespective of
32 specific violations of law. Expenses incurred for serving of warrants
33 for failure to appear and jury fees under RCW 10.46.190 may be included
34 in costs the court may require a defendant to pay. Costs for
35 administering a deferred prosecution may not exceed one hundred fifty
36 dollars. Costs for preparing and serving a warrant for failure to
37 appear may not exceed one hundred dollars. ~~((Costs of incarceration
38 imposed on a defendant convicted of a misdemeanor or a gross~~

1 ~~misdemeanor may not exceed fifty dollars per day of incarceration.))~~
2 Payment of other court-ordered financial obligations, including all
3 legal financial obligations and costs of supervision take precedence
4 over the payment of the cost of incarceration ordered by the court.
5 All funds received from defendants for the cost of incarceration in the
6 county or city jail must be remitted for criminal justice purposes to
7 the county or city that is responsible for the defendant's jail costs.
8 Costs imposed constitute a judgment against a defendant and survive a
9 dismissal of the underlying action against the defendant. However, if
10 the defendant is acquitted on the underlying action, the costs for
11 preparing and serving a warrant for failure to appear do not survive
12 the acquittal, and the judgment that such costs would otherwise
13 constitute shall be vacated.

14 (3) The court shall not sentence a defendant to pay costs unless
15 the defendant is or will be able to pay them. In determining the
16 amount and method of payment of costs, the court shall take account of
17 the financial resources of the defendant and the nature of the burden
18 that payment of costs will impose.

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

27 **Sec. 13.** RCW 9.94A.145 and 1997 c 121 s 5 and 1997 c 52 s 3 are
28 each reenacted and amended to read as follows:

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

1 receipt of an offender's monthly payment, after restitution is
2 satisfied, the county clerk shall distribute the payment proportionally
3 among all other fines, costs, and assessments imposed, unless otherwise
4 ordered by the court.

5 ~~(2) ((If the court determines that the offender, at the time of~~
6 ~~sentencing, has the means to pay for the cost of incarceration, the~~
7 ~~court may require the offender to pay for the cost of incarceration at~~
8 ~~a rate of fifty dollars per day of incarceration.))~~ Payment of other
9 court-ordered financial obligations, including all legal financial
10 obligations and costs of supervision shall take precedence over the
11 payment of the cost of incarceration ~~((ordered by the court))~~ pursuant
12 to sections 3 and 7 of this act. All funds recovered from offenders
13 for the cost of incarceration in the county jail shall be remitted to
14 the county and the costs of incarceration in a prison shall be remitted
15 to the department of corrections.

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 immediately issued. 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 may serve a
30 notice on the offender stating such requirements and authorizations.
31 Service shall be by personal service or any form of mail requiring a
32 return receipt.

33 (4) All legal financial obligations that are ordered as a result of
34 a conviction for a felony, may also be enforced in the same manner as
35 a judgment in a civil action by the party or entity to whom the legal
36 financial obligation is owed. Restitution collected through civil
37 enforcement must be paid through the registry of the court and must be
38 distributed proportionately according to each victim's loss when there
39 is more than one victim. The judgment and sentence shall identify the

1 party or entity to whom restitution is owed so that the state, party,
2 or entity may enforce the judgment. If restitution is ordered pursuant
3 to RCW 9.94A.140(3) or 9.94A.142(3) to a victim of rape of a child and
4 the victim's child born from the rape, the Washington state child
5 support registry shall be identified as the party to whom payments must
6 be made. Restitution obligations arising from the rape of a child in
7 the first, second, or third degree that result in the pregnancy of the
8 victim may be enforced for the time periods provided under RCW
9 9.94A.140(3) and 9.94A.142(3). All other legal financial obligations
10 may be enforced at any time during the ten-year period following the
11 offender's release from total confinement or within ten years of entry
12 of the judgment and sentence, whichever period is longer. Prior to the
13 expiration of the initial ten-year period, the superior court may
14 extend the criminal judgment an additional ten years for payment of
15 legal financial obligations including crime victims' assessments. If
16 jurisdiction under the criminal judgment is extended, the department is
17 not responsible for supervision of the offender during the subsequent
18 period. Independent of the department, the party or entity to whom the
19 legal financial obligation is owed shall have the authority to utilize
20 any other remedies available to the party or entity to collect the
21 legal financial obligation.

22 (5) In order to assist the court in setting a monthly sum that the
23 offender must pay during the period of supervision, the offender is
24 required to report to the department for purposes of preparing a
25 recommendation to the court. When reporting, the offender is required,
26 under oath, to truthfully and honestly respond to all questions
27 concerning present, past, and future earning capabilities and the
28 location and nature of all property or financial assets. The offender
29 is further required to bring any and all documents as requested by the
30 department.

31 (6) After completing the investigation, the department shall make
32 a report to the court on the amount of the monthly payment that the
33 offender should be required to make towards a satisfied legal financial
34 obligation.

35 (7) During the period of supervision, the department may make a
36 recommendation to the court that the offender's monthly payment
37 schedule be modified so as to reflect a change in financial
38 circumstances. If the department sets the monthly payment amount, the
39 department may modify the monthly payment amount without the matter

1 being returned to the court. Also, during the period of supervision,
2 the offender may be required at the request of the department to report
3 to the department for the purposes of reviewing the appropriateness of
4 the collection schedule for the legal financial obligation. During
5 this reporting, the offender is required under oath to truthfully and
6 honestly respond to all questions concerning earning capabilities and
7 the location and nature of all property or financial assets. Also, the
8 offender is required to bring any and all documents as requested by the
9 department in order to prepare the collection schedule.

10 (8) After the judgment and sentence or payment order is entered,
11 the department shall for any period of supervision be authorized to
12 collect the legal financial obligation from the offender. Any amount
13 collected by the department shall be remitted daily to the county clerk
14 for the purposes of disbursements. The department is authorized to
15 accept credit cards as payment for a legal financial obligation, and
16 any costs incurred related to accepting credit card payments shall be
17 the responsibility 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.2001.

22 (10) The requirement that the offender pay a monthly sum towards a
23 legal financial obligation constitutes a condition or requirement of a
24 sentence and the offender is subject to the penalties as provided in
25 RCW 9.94A.200 for noncompliance.

26 (11) The county clerk shall provide the department with
27 individualized monthly billings for each offender with an unsatisfied
28 legal financial obligation and shall provide the department with notice
29 of payments by such offenders no less frequently than weekly.

30 **Sec. 14.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
31 each reenacted and amended to read as follows:

32 Alternatives to total confinement are available for offenders with
33 sentences of one year or less. These alternatives include the
34 following sentence conditions that the court may order as substitutes
35 for total confinement:

36 (1) One day of partial confinement may be substituted for one day
37 of total confinement;

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

8 (3) For offenders convicted of nonviolent and nonsex offenses, the
9 court may authorize county jails to convert jail confinement to an
10 available county supervised community option.

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

15 NEW SECTION. Sec. 15. RCW 72.01.415 and 1997 c 338 s 42 are each
16 repealed.

17 NEW SECTION. Sec. 16. Sections 1 and 3 through 11 of this act are
18 each added to chapter 70.48 RCW.

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