

**SSB 5168** - H COMM AMD  
By Committee on Judiciary

1 On page 2, after line 20, insert the following:

2 "Sec. 2. RCW 9.94A.637 and 2003 c 379 s 19 are each amended to  
3 read as follows:

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

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

18 (ii) When the department has provided the county clerk with  
19 notice that an offender has completed all the requirements of the  
20 sentence and the offender subsequently satisfies all legal  
21 financial obligations under the sentence, the county clerk shall  
22 notify the sentencing court, including the notice from the  
23 department, which shall discharge the offender and provide the  
24 offender with a certificate of discharge by issuing the certificate  
25 to the offender in person or by mailing the certificate to the  
26 offender's last known address.

27 (c) When an offender who is subject to requirements of the  
28 sentence in addition to the payment of legal financial obligations  
29 either is not subject to supervision by the department or does not  
30 complete the requirements while under supervision of the

1 department, it is the offender's responsibility to provide the  
2 court with verification of the completion of the sentence  
3 conditions other than the payment of legal financial obligations.  
4 When the offender satisfies all legal financial obligations under  
5 the sentence, the county clerk shall notify the sentencing court  
6 that the legal financial obligations have been satisfied. When the  
7 court has received both notification from the clerk and adequate  
8 verification from the offender that the sentence requirements have  
9 been completed, the court shall discharge the offender and provide  
10 the offender with a certificate of discharge by issuing the  
11 certificate to the offender in person or by mailing the certificate  
12 to the offender's last known address.

13 (2) The court shall send a copy of every signed certificate of  
14 discharge to the auditor for the county in which the court resides  
15 and to the department. The department shall create and maintain a  
16 data base containing the names of all felons who have been issued  
17 certificates of discharge, the date of discharge, and the date of  
18 conviction and offense.

19 (3) An offender who is not convicted of a violent offense or a  
20 sex offense and is sentenced to a term involving community  
21 supervision may be considered for a discharge of sentence by the  
22 sentencing court prior to the completion of community supervision,  
23 provided that the offender has completed at least one-half of the  
24 term of community supervision and has met all other sentence  
25 requirements.

26 (4) Except as provided in subsection (5) of this section, the  
27 discharge shall have the effect of restoring all civil rights lost  
28 by operation of law upon conviction, and the certificate of  
29 discharge shall so state. Nothing in this section prohibits the  
30 use of an offender's prior record for purposes of determining  
31 sentences for later offenses as provided in this chapter. Nothing  
32 in this section affects or prevents use of the offender's prior  
33 conviction in a later criminal prosecution either as an element of  
34 an offense or for impeachment purposes. A certificate of discharge  
35 is not based on a finding of rehabilitation.

36 (5) Unless otherwise ordered by the sentencing court, a  
37 certificate of discharge shall not terminate the offender's  
38 obligation to comply with an order issued under chapter 10.99 RCW  
39 that excludes or prohibits the offender from having contact with a

1 specified person or coming within a set distance of any specified  
2 location that was contained in the judgment and sentence. An  
3 offender who violates such an order after a certificate of  
4 discharge has been issued shall be subject to prosecution according  
5 to the chapter under which the order was originally issued.

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

10 **Sec. 3.** RCW 9.94A.760 and 2003 c 379 s 14 are each amended to  
11 read as follows:

12 (1) Whenever a person is convicted (~~(of a felony)~~) in superior  
13 court, the court may order the payment of a legal financial  
14 obligation as part of the sentence. The court must on either the  
15 judgment and sentence or on a subsequent order to pay, designate  
16 the total amount of a legal financial obligation and segregate this  
17 amount among the separate assessments made for restitution, costs,  
18 fines, and other assessments required by law. On the same order,  
19 the court is also to set a sum that the offender is required to pay  
20 on a monthly basis towards satisfying the legal financial  
21 obligation. If the court fails to set the offender monthly payment  
22 amount, the department shall set the amount if the department has  
23 active supervision of the offender, otherwise the county clerk  
24 shall set the amount. Upon receipt of an offender's monthly  
25 payment, restitution shall be paid prior to any payments of other  
26 monetary obligations. After restitution is satisfied, the county  
27 clerk shall distribute the payment proportionally among all other  
28 fines, costs, and assessments imposed, unless otherwise ordered by  
29 the court.

30 (2) If the court determines that the offender, at the time of  
31 sentencing, has the means to pay for the cost of incarceration, the  
32 court may require the offender to pay for the cost of incarceration  
33 at a rate of fifty dollars per day of incarceration. Payment of  
34 other court-ordered financial obligations, including all legal  
35 financial obligations and costs of supervision shall take  
36 precedence over the payment of the cost of incarceration ordered by  
37 the court. All funds recovered from offenders for the cost of  
38 incarceration in the county jail shall be remitted to the county

1 and the costs of incarceration in a prison shall be remitted to the  
2 department.

3 (3) The court may add to the judgment and sentence or  
4 subsequent order to pay a statement that a notice of payroll  
5 deduction is to be issued immediately. If the court chooses not to  
6 order the immediate issuance of a notice of payroll deduction at  
7 sentencing, the court shall add to the judgment and sentence or  
8 subsequent order to pay a statement that a notice of payroll  
9 deduction may be issued or other income-withholding action may be  
10 taken, without further notice to the offender if a monthly court-  
11 ordered legal financial obligation payment is not paid when due,  
12 and an amount equal to or greater than the amount payable for one  
13 month is owed.

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

21 (4) Independent of the department or the county clerk, the  
22 party or entity to whom the legal financial obligation is owed  
23 shall have the authority to use any other remedies available to the  
24 party or entity to collect the legal financial obligation. These  
25 remedies include enforcement in the same manner as a judgment in a  
26 civil action by the party or entity to whom the legal financial  
27 obligation is owed. Restitution collected through civil  
28 enforcement must be paid through the registry of the court and must  
29 be distributed proportionately according to each victim's loss when  
30 there is more than one victim. The judgment and sentence shall  
31 identify the party or entity to whom restitution is owed so that  
32 the state, party, or entity may enforce the judgment. If  
33 restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6)  
34 to a victim of rape of a child or a victim's child born from the  
35 rape, the Washington state child support registry shall be  
36 identified as the party to whom payments must be made. Restitution  
37 obligations arising from the rape of a child in the first, second,  
38 or third degree that result in the pregnancy of the victim may be  
39 enforced for the time periods provided under RCW 9.94A.750(6) and

1 9.94A.753(6). All other legal financial obligations for an offense  
2 committed prior to July 1, 2000, may be enforced at any time during  
3 the ten-year period following the offender's release from total  
4 confinement or within ten years of entry of the judgment and  
5 sentence, whichever period ends later. Prior to the expiration of  
6 the initial ten-year period, the superior court may extend the  
7 criminal judgment an additional ten years for payment of legal  
8 financial obligations including crime victims' assessments. All  
9 other legal financial obligations for an offense committed on or  
10 after July 1, 2000, may be enforced at any time the offender  
11 remains under the court's jurisdiction. For an offense committed  
12 on or after July 1, 2000, the court shall retain jurisdiction over  
13 the offender, for purposes of the offender's compliance with  
14 payment of the legal financial obligations, until the obligation is  
15 completely satisfied, regardless of the statutory maximum for the  
16 crime. The department may only supervise the offender's compliance  
17 with payment of the legal financial obligations during any period  
18 in which the department is authorized to supervise the offender in  
19 the community under RCW 9.94A.728, 9.94A.501, or in which the  
20 offender is confined in a state correctional institution or a  
21 correctional facility pursuant to a transfer agreement with the  
22 department, and the department shall supervise the offender's  
23 compliance during any such period. The department is not  
24 responsible for supervision of the offender during any subsequent  
25 period of time the offender remains under the court's jurisdiction.  
26 The county clerk is authorized to collect unpaid legal financial  
27 obligations at any time the offender remains under the jurisdiction  
28 of the court for purposes of his or her legal financial  
29 obligations.

30 (5) In order to assist the court in setting a monthly sum that  
31 the offender must pay during the period of supervision, the  
32 offender is required to report to the department for purposes of  
33 preparing a recommendation to the court. When reporting, the  
34 offender is required, under oath, to respond truthfully and  
35 honestly to all questions concerning present, past, and future  
36 earning capabilities and the location and nature of all property or  
37 financial assets. The offender is further required to bring all  
38 documents requested by the department.

1 (6) After completing the investigation, the department shall  
2 make a report to the court on the amount of the monthly payment  
3 that the offender should be required to make towards a satisfied  
4 legal financial obligation.

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

19 (b) Subsequent to any period of supervision, or if the  
20 department is not authorized to supervise the offender in the  
21 community, the county clerk may make a recommendation to the court  
22 that the offender's monthly payment schedule be modified so as to  
23 reflect a change in financial circumstances. If the county clerk  
24 sets the monthly payment amount, or if the department set the  
25 monthly payment amount and the department has subsequently turned  
26 the collection of the legal financial obligation over to the county  
27 clerk, the clerk may modify the monthly payment amount without the  
28 matter being returned to the court. During the period of  
29 repayment, the county clerk may require the offender to report to  
30 the clerk for the purpose of reviewing the appropriateness of the  
31 collection schedule for the legal financial obligation. During  
32 this reporting, the offender is required under oath to respond  
33 truthfully and honestly to all questions concerning earning  
34 capabilities and the location and nature of all property or  
35 financial assets. The offender shall bring all documents requested  
36 by the county clerk in order to prepare the collection schedule.

37 (8) After the judgment and sentence or payment order is  
38 entered, the department is authorized, for any period of  
39 supervision, to collect the legal financial obligation from the

1 offender. Subsequent to any period of supervision or, if the  
2 department is not authorized to supervise the offender in the  
3 community, the county clerk is authorized to collect unpaid legal  
4 financial obligations from the offender. Any amount collected by  
5 the department shall be remitted daily to the county clerk for the  
6 purpose of disbursements. The department and the county clerks are  
7 authorized, but not required, to accept credit cards as payment for  
8 a legal financial obligation, and any costs incurred related to  
9 accepting credit card payments shall be the responsibility of the  
10 offender.

11 (9) The department or any obligee of the legal financial  
12 obligation may seek a mandatory wage assignment for the purposes of  
13 obtaining satisfaction for the legal financial obligation pursuant  
14 to RCW 9.94A.7701. Any party obtaining a wage assignment shall  
15 notify the county clerk. The county clerks shall notify the  
16 department, or the administrative office of the courts, whichever  
17 is providing the monthly billing for the offender.

18 (10) The requirement that the offender pay a monthly sum  
19 towards a legal financial obligation constitutes a condition or  
20 requirement of a sentence and the offender is subject to the  
21 penalties for noncompliance as provided in RCW 9.94A.634,  
22 9.94A.737, or 9.94A.740.

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

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

31 (c) The billing shall direct payments, other than outstanding  
32 cost of supervision assessments under RCW 9.94A.780, parole  
33 assessments under RCW 72.04A.120, and cost of probation assessments  
34 under RCW 9.95.214, to the county clerk, and cost of supervision,  
35 parole, or probation assessments to the department.

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

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

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

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

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

26 **Sec. 4.** RCW 9.94A.772 and 2003 c 379 s 22 are each amended to  
27 read as follows:

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



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

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

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

14           (2) Requested by a county clerk for the purposes of RCW  
15 9.94A.760.

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

18 Correct the title.

**EFFECT:** The amendment adds the provisions of SSB 6588, which makes the following changes:

- ∅ Requires an offender who is not supervised by DOC to notify the court when he or she has completed non-legal financial obligation (LFO) conditions of his or her sentence and requires the clerk to notify the court when the LFO obligation has been satisfied. Allows the court to discharge the offender once the court receives these two notifications.
- ∅ Allows the county clerk to set the monthly amount of an offender's LFO payment if DOC is not supervising the offender.
- ∅ Allows the county clerk to access the records of the employment security department to verify employment and income and to seek wage assignments.
- ∅ Provides that monthly payment or starting dates set by the court, the clerk, or the DOC shall not be construed as a limitation for purposes of credit reporting.