

HOUSE BILL REPORT

SSB 5169

As Reported by House Committee On:
Judiciary

Title: An act relating to court-ordered restitution.

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

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senator Hargrove).

Brief History:

Committee Activity:

Judiciary: 3/27/03, 3/28/03 [DP].

Brief Summary of Substitute Bill

- Prohibits the court from postponing an offender's restitution payments until after the offender is released from total confinement.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Edie Adams (786-7180).

Background:

When a defendant is convicted of a crime, the court may impose financial obligations as part of the judgment and sentence. Financial obligations that may be imposed on a defendant include: victim restitution; crime victims' compensation fees; court costs; court-appointed attorneys' fees and costs of defense; fines; and other costs associated with the offense or sentence, such as supervision or incarceration costs. An offender's payments towards a legal financial obligation are applied first to restitution, and then proportionally to other monetary obligations after restitution has been satisfied.

A sentencing court must order the payment of restitution whenever a victim of the crime is entitled to crime victims compensation benefits. In addition, a court must order restitution when the offender is convicted of an offense which results in personal injury or property damage unless extraordinary circumstances exist that make restitution inappropriate.

When a court imposes restitution or other legal financial obligations, the court must set a minimum monthly payment that the offender is required to make. The monthly payment schedule may be modified upon a change of circumstances. The judgment must identify the victim or victims entitled to restitution and the amount due to each victim. Either the state or the victim may enforce the restitution obligation in the same manner as a civil judgment.

The requirement that an offender pay a monthly sum towards a legal financial obligation is a condition of the sentence and an offender is subject to penalties for noncompliance.

The Department of Corrections (Department) provides inmate work programs through the Correctional Industries Board. There are five classes of work programs available to inmates, Class I through Class V. Class I through Class IV work programs pay wages that are subject to mandatory deductions by the Department. For Class I Industry jobs and others paying minimum wage, the Department must deduct 55 percent from the offenders wages as follows: 5 percent for crime victims' compensation program; 10 percent for an inmate savings account; 20 percent for costs of incarceration; and 20 percent for legal financial obligations. Class II Industry wages are subject to a mandatory deduction of 50 percent of the wages, in the same proportion as Class I jobs, with the exception that deductions for the cost of incarceration are reduced to 15 percent.

Summary of Bill:

When a court has ordered an offender to pay restitution as part of the sentence and judgment, the court may not postpone 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 considered a violation of the sentence unless the offender's inability to make payments results from a refusal to accept correctional industries Class I or Class II employment, or from termination for cause from such employment.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: This bill makes restitution part of the pie that is subject to mandatory deductions by the Department of Corrections. Inmates do not make much money while incarcerated so it is likely to create only a small stream of income for some victims during incarceration. It is unclear whether this will be worth the administrative costs that will be incurred.

Testified: Chris Jackson, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.