

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5168**

58th Legislature  
2004 Regular Session

Passed by the Senate March 9, 2004  
YEAS 48 NAYS 0

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**President of the Senate**

Passed by the House March 3, 2004  
YEAS 96 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Milton H. Doumit, Jr.,  
Secretary of the Senate of the  
State of Washington, do hereby  
certify that the attached is  
**SUBSTITUTE SENATE BILL 5168** as  
passed by the Senate and the House  
of Representatives on the dates  
hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5168**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

**State of Washington                      58th Legislature                      2003 Regular Session**

**By** Senate Committee on Children & Family Services & Corrections  
(originally sponsored by Senator Hargrove)

READ FIRST TIME 02/12/03.

1            AN ACT Relating to interest on legal financial obligations; and  
2 amending RCW 10.82.090, 9.94A.637, 9.94A.760, 9.94A.772, and 50.13.020.

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

4            **Sec. 1.** RCW 10.82.090 and 1995 c 291 s 7 are each amended to read  
5 as follows:

6            (1) Except as provided in subsection (2) of this section, financial  
7 obligations imposed in a judgment shall bear interest from the date of  
8 the judgment until payment, at the rate applicable to civil judgments.  
9 All nonrestitution interest retained by the court shall be split  
10 twenty-five percent to the state treasurer for deposit in the public  
11 safety and education account as provided in RCW 43.08.250, twenty-five  
12 percent to the state treasurer for deposit in the judicial information  
13 system account as provided in RCW 2.68.020, twenty-five percent to the  
14 county current expense fund, and twenty-five percent to the county  
15 current expense fund to fund local courts.

16            (2) The court may, on motion by the offender, following the  
17 offender's release from total confinement, reduce or waive the interest  
18 on legal financial obligations levied as a result of a criminal  
19 conviction. The court may reduce or waive the interest only as an

1 incentive for the offender to meet his or her legal financial  
2 obligations. The court may not waive the interest on the restitution  
3 portion of the legal financial obligation and may only reduce the  
4 interest on the restitution portion of the legal financial obligation  
5 if the principal of the restitution has been paid in full. The  
6 offender must show that he or she has personally made a good faith  
7 effort to pay, that the interest accrual is causing a significant  
8 hardship, and that he or she will be unable to pay the principal and  
9 interest in full and that reduction or waiver of the interest will  
10 likely enable the offender to pay the full principal and any remaining  
11 interest thereon. For purposes of this section, "good faith effort"  
12 means that the offender has either (a) paid the principal amount in  
13 full; or (b) made twenty-four consecutive monthly payments, excluding  
14 any payments mandatorily deducted by the department of corrections, on  
15 his or her legal financial obligations under his or her payment  
16 agreement with the court. The court may grant the motion, establish a  
17 payment schedule, and retain jurisdiction over the offender for  
18 purposes of reviewing and revising the reduction or waiver of interest.  
19 This section applies to persons convicted as adults or in juvenile  
20 court.

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

23 (1)(a) When an offender has completed all requirements of the  
24 sentence, including any and all legal financial obligations, and while  
25 under the custody and supervision of the department, the secretary or  
26 the secretary's designee shall notify the sentencing court, which shall  
27 discharge the offender and provide the offender with a certificate of  
28 discharge by issuing the certificate to the offender in person or by  
29 mailing the certificate to the offender's last known address.

30 (b)(i) When an offender has reached the end of his or her  
31 supervision with the department and has completed all the requirements  
32 of the sentence except his or her legal financial obligations, the  
33 secretary's designee shall provide the county clerk with a notice that  
34 the offender has completed all nonfinancial requirements of the  
35 sentence.

36 (ii) When the department has provided the county clerk with notice  
37 that an offender has completed all the requirements of the sentence and

1 the offender subsequently satisfies all legal financial obligations  
2 under the sentence, the county clerk shall notify the sentencing court,  
3 including the notice from the department, which shall discharge the  
4 offender and provide the offender with a certificate of discharge by  
5 issuing the certificate to the offender in person or by mailing the  
6 certificate to the offender's last known address.

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

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

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

34 (4) Except as provided in subsection (5) of this section, the  
35 discharge shall have the effect of restoring all civil rights lost by  
36 operation of law upon conviction, and the certificate of discharge  
37 shall so state. Nothing in this section prohibits the use of an  
38 offender's prior record for purposes of determining sentences for later

1 offenses as provided in this chapter. Nothing in this section affects  
2 or prevents use of the offender's prior conviction in a later criminal  
3 prosecution either as an element of an offense or for impeachment  
4 purposes. A certificate of discharge is not based on a finding of  
5 rehabilitation.

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

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

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

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

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

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

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

28           (4) Independent of the department or the county clerk, the party or  
29 entity to whom the legal financial obligation is owed shall have the  
30 authority to use any other remedies available to the party or entity to  
31 collect the legal financial obligation. These remedies include  
32 enforcement in the same manner as a judgment in a civil action by the  
33 party or entity to whom the legal financial obligation is owed.  
34 Restitution collected through civil enforcement must be paid through  
35 the registry of the court and must be distributed proportionately  
36 according to each victim's loss when there is more than one victim.  
37 The judgment and sentence shall identify the party or entity to whom  
38 restitution is owed so that the state, party, or entity may enforce the

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

35 (5) In order to assist the court in setting a monthly sum that the  
36 offender must pay during the period of supervision, the offender is  
37 required to report to the department for purposes of preparing a  
38 recommendation to the court. When reporting, the offender is required,

1 under oath, to respond truthfully and honestly to all questions  
2 concerning present, past, and future earning capabilities and the  
3 location and nature of all property or financial assets. The offender  
4 is further required to bring all documents requested by the department.

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

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

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



1 assets. The offender shall bring all documents requested by the county  
2 clerk in order to prepare the collection schedule.

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

15 (9) The department or any obligee of the legal financial obligation  
16 may seek a mandatory wage assignment for the purposes of obtaining  
17 satisfaction for the legal financial obligation pursuant to RCW  
18 9.94A.7701. Any party obtaining a wage assignment shall notify the  
19 county clerk. The county clerks shall notify the department, or the  
20 administrative office of the courts, whichever is providing the monthly  
21 billing for the offender.

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 for noncompliance  
25 as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

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

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

33 (c) The billing shall direct payments, other than outstanding cost  
34 of supervision assessments under RCW 9.94A.780, parole assessments  
35 under RCW 72.04A.120, and cost of probation assessments under RCW  
36 9.95.214, to the county clerk, and cost of supervision, parole, or  
37 probation assessments to the department.

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

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

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

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

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

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

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

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

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

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

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

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

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