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**SUBSTITUTE SENATE BILL 6134**

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**State of Washington                      64th Legislature                      2015 2nd Special Session**

**By Senate Law & Justice (originally sponsored by Senator Padden)**

READ FIRST TIME 06/19/15.

1            AN ACT Relating to exempting pretrial electronic alcohol  
2 monitoring programs from statutory limitations on pretrial  
3 supervision costs; and amending RCW 10.01.160 and 46.61.50571.

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

5            **Sec. 1.** RCW 10.01.160 and 2010 c 54 s 1 are each amended to read  
6 as follows:

7            (1) The court may require a defendant to pay costs. Costs may be  
8 imposed only upon a convicted defendant, except for costs imposed  
9 upon a defendant's entry into a deferred prosecution program, costs  
10 imposed upon a defendant for pretrial supervision, or costs imposed  
11 upon a defendant for preparing and serving a warrant for failure to  
12 appear.

13            (2) Costs shall be limited to expenses specially incurred by the  
14 state in prosecuting the defendant or in administering the deferred  
15 prosecution program under chapter 10.05 RCW or pretrial supervision.  
16 They cannot include expenses inherent in providing a constitutionally  
17 guaranteed jury trial or expenditures in connection with the  
18 maintenance and operation of government agencies that must be made by  
19 the public irrespective of specific violations of law. Expenses  
20 incurred for serving of warrants for failure to appear and jury fees  
21 under RCW 10.46.190 may be included in costs the court may require a

1 defendant to pay. Costs for administering a deferred prosecution may  
2 not exceed two hundred fifty dollars. Costs for administering a  
3 pretrial supervision other than a pretrial electronic alcohol  
4 monitoring program, drug monitoring program, or 24/7 sobriety program  
5 may not exceed one hundred fifty dollars. Costs for preparing and  
6 serving a warrant for failure to appear may not exceed one hundred  
7 dollars. Costs of incarceration imposed on a defendant convicted of a  
8 misdemeanor or a gross misdemeanor may not exceed the actual cost of  
9 incarceration. In no case may the court require the offender to pay  
10 more than one hundred dollars per day for the cost of incarceration.  
11 Payment of other court-ordered financial obligations, including all  
12 legal financial obligations and costs of supervision take precedence  
13 over the payment of the cost of incarceration ordered by the court.  
14 All funds received from defendants for the cost of incarceration in  
15 the county or city jail must be remitted for criminal justice  
16 purposes to the county or city that is responsible for the  
17 defendant's jail costs. Costs imposed constitute a judgment against a  
18 defendant and survive a dismissal of the underlying action against  
19 the defendant. However, if the defendant is acquitted on the  
20 underlying action, the costs for preparing and serving a warrant for  
21 failure to appear do not survive the acquittal, and the judgment that  
22 such costs would otherwise constitute shall be vacated.

23 (3) The court shall not order a defendant to pay costs unless the  
24 defendant is or will be able to pay them. In determining the amount  
25 and method of payment of costs, the court shall take account of the  
26 financial resources of the defendant and the nature of the burden  
27 that payment of costs will impose.

28 (4) A defendant who has been ordered to pay costs and who is not  
29 in contumacious default in the payment thereof may at any time  
30 petition the sentencing court for remission of the payment of costs  
31 or of any unpaid portion thereof. If it appears to the satisfaction  
32 of the court that payment of the amount due will impose manifest  
33 hardship on the defendant or the defendant's immediate family, the  
34 court may remit all or part of the amount due in costs, or modify the  
35 method of payment under RCW 10.01.170.

36 (5) Except for direct costs relating to evaluating and reporting  
37 to the court, prosecutor, or defense counsel regarding a defendant's  
38 competency to stand trial as provided in RCW 10.77.060, this section  
39 shall not apply to costs related to medical or mental health  
40 treatment or services a defendant receives while in custody of the

1 secretary of the department of social and health services or other  
2 governmental units. This section shall not prevent the secretary of  
3 the department of social and health services or other governmental  
4 units from imposing liability and seeking reimbursement from a  
5 defendant committed to an appropriate facility as provided in RCW  
6 10.77.084 while criminal proceedings are stayed. This section shall  
7 also not prevent governmental units from imposing liability on  
8 defendants for costs related to providing medical or mental health  
9 treatment while the defendant is in the governmental unit's custody.  
10 Medical or mental health treatment and services a defendant receives  
11 at a state hospital or other facility are not a cost of prosecution  
12 and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter  
13 43.20B RCW, and any other applicable statute.

14 **Sec. 2.** RCW 46.61.50571 and 2013 c 3 s 36 are each amended to  
15 read as follows:

16 (1) A defendant who is charged with an offense involving driving  
17 while under the influence as defined in RCW 46.61.502, driving under  
18 age twenty-one after consuming alcohol or marijuana as defined in RCW  
19 46.61.503, or being in physical control of a vehicle while under the  
20 influence as defined in RCW 46.61.504, shall be required to appear in  
21 person before a judicial officer within one judicial day after the  
22 arrest if the defendant is served with a citation or complaint at the  
23 time of the arrest. A court may by local court rule waive the  
24 requirement for appearance within one judicial day if it provides for  
25 the appearance at the earliest practicable day following arrest and  
26 establishes the method for identifying that day in the rule.

27 (2) A defendant who is charged with an offense involving driving  
28 while under the influence as defined in RCW 46.61.502, driving under  
29 age twenty-one after consuming alcohol or marijuana as defined in RCW  
30 46.61.503, or being in physical control of a vehicle while under the  
31 influence as defined in RCW 46.61.504, and who is not served with a  
32 citation or complaint at the time of the incident, shall appear in  
33 court for arraignment in person as soon as practicable, but in no  
34 event later than fourteen days after the next day on which court is  
35 in session following the issuance of the citation or the filing of  
36 the complaint or information.

37 (3) At the time of an appearance required by this section, the  
38 court shall determine the necessity of imposing conditions of

1 pretrial release according to the procedures established by court  
2 rule for a preliminary appearance or an arraignment.

3 (4) Appearances required by this section are mandatory and may  
4 not be waived.

5 (5) If electronic monitoring or alcohol abstinence monitoring is  
6 ordered, the court shall specify who shall provide the monitoring  
7 services, and the terms under which the monitoring shall be  
8 performed. Upon conviction, the court may require as a condition of  
9 the sentence that the defendant reimburse the providing agency for  
10 the costs of the electronic monitoring or abstinence monitoring.

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