

# FINAL BILL REPORT

## E4SHB 1412

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Synopsis as Enacted

**Brief Description:** Concerning legal financial obligations.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Simmons, Goodman, Davis, Valdez, Berry, Taylor, Fitzgibbon, Peterson, Ormsby, Harris-Talley, Pollet and Macri).

**House Committee on Civil Rights & Judiciary**  
**House Committee on Appropriations**  
**Senate Committee on Law & Justice**  
**Senate Committee on Ways & Means**

**Background:**

Legal Financial Obligations.

When a defendant is convicted of a crime, the court may impose legal financial obligations (LFOs) as part of the judgment and sentence. Legal financial obligations include: victim restitution; crime victims' compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments.

Restitution.

Restitution is a sum ordered by the sentencing court to be paid by the offender over a specified period of time as payment for a victim's damages. A restitution order must be based on easily ascertainable damages for injury to property, expenses incurred for treatment of personal injuries, lost wages, and counseling that is reasonably related to the offense.

A sentencing court must order 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 that results in personal injury or property damage unless extraordinary circumstances exist that make restitution inappropriate. In ordering restitution, the court must consider the total amount of restitution owed, the offender's

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present, past, and future ability to pay, and any assets the offender may have. The court may modify the terms of the restitution order, but may not reduce the total amount of restitution ordered.

Interest on Restitution.

Restitution imposed in a judgment bears interest from the date of judgment until payment at the rate applicable to civil judgments. The rate of interest generally applicable to civil judgments is the greater of 12 percent or four points above the 26-week treasury bill rate. Upon motion of an offender, the court may reduce interest on restitution only if the principal has been paid in full and as an incentive for the offender to meet his or her other LFOs.

Time Period for Enforcement of Legal Financial Obligations.

An offender ordered to pay LFOs under a superior court judgment for an offense committed on or after July 1, 2000, remains under the court's jurisdiction until the obligation is completely satisfied, regardless of the statutory maximum for the offense. For crimes committed prior to July 1, 2000, the offender is under the court's jurisdiction for purposes of enforcement of the obligation for 10 years following release from total confinement or 10 years after entry of the judgment and sentence, whichever is longer. Prior to the expiration of the initial 10-year period, the superior court may extend the judgment an additional 10 years for payment of the LFO.

Restitution obligations ordered as a result of a conviction in a court of limited jurisdiction may be extended beyond the initial 10-year enforcement period only if the court finds the offender has not made a good faith attempt to pay.

Indigency Standard.

A defendant's indigency is considered in a number of contexts with respect to LFOs, including whether LFOs may be imposed, waived, or reduced, and whether a person can be sanctioned for failure to pay LFOs. A person is "indigent" if the person is receiving certain types of public assistance, involuntarily committed to a public mental health facility, or receiving an annual income after taxes of 125 percent of the federal poverty level.

Criminal Filing Fee.

Upon conviction or plea of guilty, a defendant in superior court is liable for a fee of \$200, and a defendant in a court of limited jurisdiction is liable for a fee of \$43. These fees may not be imposed on a defendant who is indigent.

**Summary:**

Restitution.

A court may refrain from imposing, or relieve an offender of the requirement to pay, full or partial restitution and accrued interest on restitution to any insurer or state agency, except restitution owed to the Department of Labor & Industries under the crime victim

compensation program, if the court finds the offender does not have the current or likely future ability to pay. A person does not have the current ability to pay if the person is indigent. "Insurer" does not include an individual self-insurance program or joint self-insurance program.

#### Interest on Restitution.

The court may elect not to impose interest on any restitution ordered by the court after inquiring into and considering the following factors:

- whether the offender is indigent under statutory standards for appointment of counsel or under General Rule 24 of the court rules;
- the offender's available funds and other liabilities, including child support and other LFOs; and
- whether the offender is homeless or mentally ill as defined under the Sentencing Reform Act (SRA).

The court also must consider input from the victim as to hardship caused to the victim if interest on restitution is not imposed. The court may consider any other information the court believes, in the interest of justice, relates to the determination of whether or not to impose interest on restitution.

Upon motion of an offender, a court may waive any interest imposed on restitution if the restitution principal has been paid in full. Without regard to whether restitution principal has been paid, after an offender's release from total confinement, the court may waive or reduce interest on restitution that accrued during incarceration if the offender does not have the current or likely future ability to pay. The prosecuting attorney must make reasonable efforts to notify the victim entitled to restitution of the hearing, and the court must consider any input from a victim on the impact of waiving restitution interest.

#### Time Period for Enforcement of Legal Financial Obligations.

The time period for enforcing a judgment for nonrestitution LFOs is revised. Regardless of when the judgment was entered, nonrestitution LFOs may be enforced during the 10-year period following the offender's release from confinement or within 10 years of the judgment and sentence, whichever is later. The judgment may be extended beyond the initial 10-year enforcement period only if the court finds that the offender has the current or likely future ability to pay the obligation. A person does not have the current ability to pay if the person is indigent.

#### Indigency Standard.

A new definition of "indigent" is provided and applies with respect to a number of purposes relating to LFOs, including when LFOs may be imposed, waived or reduced, or enforced, and when a person may be sanctioned for failure to pay LFOs. A defendant is "indigent" if the defendant:

- is receiving certain types of public assistance, involuntarily committed to a public mental health facility, or receiving an annual income after taxes of 125 percent of the federal poverty level;

- is homeless or mentally ill as defined under the SRA;
- has household income above 125 percent of the federal poverty guidelines and has recurring basic living costs that render the defendant without the financial ability to pay; or
- has other compelling circumstances that exist that demonstrate an inability to pay.

Remission of Fines.

A defendant may at any time petition the sentencing court for remission of the payment of any fines or unpaid portion of fines. The court may remit all or part of the amount due in fines or convert the amount to community restitution hours if the court finds that payment of the amount due will impose a manifest hardship on the defendant or the defendant's immediate family. Manifest hardship exists where the defendant is indigent.

Criminal Filing Fee.

Upon motion of the offender, the court may waive any previously imposed superior court criminal filing fee if the court finds that the defendant is indigent.

**Votes on Final Passage:**

House	70	24	
Senate	38	11	(Senate amended)
House	64	32	(House concurred)

**Effective:** January 1, 2023