
SECOND SUBSTITUTE SENATE BILL 5663

State of Washington

67th Legislature

2022 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dhingra, Hasegawa, Saldaña, Stanford, and C. Wilson)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to establishing streamlined procedures for
2 compliance with the State v. Blake decision in order to improve
3 criminal justice system coordination, create efficiencies, and reduce
4 costs; amending RCW 72.09.480 and 72.09.450; adding a new chapter to
5 Title 10 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. Due to the
8 Washington supreme court's decision in *State v. Blake*, 197 Wn.2d 170,
9 174, 481 P.3d 521 (2021), all convictions since 1971 for simple drug
10 possession are constitutionally void. This decision requires vacation
11 of tens of thousands of convictions entered in the superior,
12 district, and municipal courts. Under due process, a conviction
13 vacated due to *Blake* requires a refund of any legal financial
14 obligations and collection costs paid pursuant to that conviction.
15 Since *Blake* was issued in February 2021, the state's criminal justice
16 system has vacated over 15,000 cases, focusing first on persons
17 currently incarcerated, under active supervision, or on warrant
18 status. Using funds appropriated during the 2020 legislative session,
19 efforts are ongoing to vacate additional cases and refund legal
20 financial obligations and collection costs, but it is likely that the
21 total number of convictions subject to *Blake* over the last 50 years

1 exceed 150,000. As such, the legislature finds it is necessary to
2 implement a concerted and coordinated procedure to vacate these
3 convictions using a proactive and steady workflow that allows for
4 rapid resolution of large numbers of cases over time. Because
5 vacation of these convictions falls within the jurisdiction of the
6 originating court, a procedure that utilizes current court rules and
7 existing mechanisms of the state's criminal justice system is the
8 most efficient way to vacate affected convictions. Once a conviction
9 is vacated and a legal financial obligation refund is determined, a
10 centralized method for disbursing refunds will most efficiently
11 return money to affected people.

12 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
13 section apply throughout this chapter unless the context clearly
14 requires otherwise.

15 (1) "Available court records" means court records that are
16 readily available to court personnel.

17 (2) "Convictions for simple drug possession" includes all
18 convictions or juvenile adjudications since adoption of the uniform
19 controlled substances act of 1971 for possession of any controlled
20 substance, attempted possession of any controlled substance,
21 conspiracy to possess any controlled substance, or solicitation to
22 possess any controlled substance, under the authority of statute, or
23 an ordinance authorized by statute, where the statute or ordinance
24 did not require proof of intentional possession of the controlled
25 substance. It also includes convictions for offenses where a prior
26 conviction for simple drug possession serves as an element of the
27 subsequent offense.

28 (3) "Legal financial obligations and collection costs" means a
29 sum of money that is ordered by court in connection with a conviction
30 for a crime, or assessed as part of a diversion program, deferred
31 sentence, or similar program, and actually paid by the defendant or
32 on the defendant's behalf, which may include restitution to the
33 victim, statutorily imposed crime victims' compensation fees, court
34 costs, county or interlocal drug funds, court-appointed attorneys'
35 fees, and costs of defense, fines, and any other financial obligation
36 that is assessed to the offender as a result of the conviction, or
37 assessed as part of a diversion program, deferred sentence, or
38 similar program which resulted in dismissal or nonfiling of a charge.
39 It also includes penalties, interest, fees, and collection costs

1 authorized by law for the collection or enforcement of legal
2 financial obligations.

3 (4) "Nonconviction" includes all adult and juvenile charges for
4 simple drug possession offenses that were dismissed or not filed
5 following successful completion of a diversion program, deferred
6 sentence, or similar program.

7 NEW SECTION. **Sec. 3.** SUPERIOR AND DISTRICT COURT VACATIONS. (1)
8 In coordination with the superior court clerk or district court
9 administrator within each county, the administrator of the
10 administrative office of the courts shall develop comprehensive,
11 line-item reports for each court of all persons with existing
12 convictions for simple drug possession since 1971. The report will be
13 based on available court records and list convictions and
14 nonconvictions chronologically by cause number in a readily
15 searchable and sortable format. For each cause number subject to the
16 *Blake* decision, the report shall include the person's name, birth
17 date, last known address, date of the judgment and sentence or
18 dismissals pursuant to successful completion of a diversion program,
19 a listing of all conviction counts for simple drug possession in the
20 judgment and sentence or order of dismissal pursuant to successful
21 completion of a diversion program, and a listing of all conviction
22 counts for other offenses in the judgment and sentence. The
23 administrator will indicate any period of time where court records
24 are unavailable. The superior court clerk or district court
25 administrator shall develop a similar report of all sealed cases of
26 persons with convictions and nonconvictions for simple drug
27 possession since 1971. This shall be kept confidential and shall only
28 be shared with the administrator.

29 (2) In compiling the report, the administrator, with the
30 assistance of the department of corrections and the superior court
31 clerk or district court administrator, shall prioritize cases in the
32 following order: (a) The person is incarcerated due to a qualifying
33 conviction; (b) the person is incarcerated with a qualifying
34 conviction in the person's criminal history score; (c) the person is
35 under active or inactive supervision; and (d) the person has a past
36 conviction or nonconviction for a qualifying offense. Within six
37 months of the effective date of this section, for court records that
38 are available to court personnel electronically, the administrator
39 shall complete the report for persons under (a), (b), or (c) of this

1 subsection. For persons under (d) of this subsection, for court
2 records that are available to court personnel electronically, the
3 administrator shall complete the report by January 1, 2023. Any
4 nonelectronic court records, to include paper records or records
5 found on microfiche, shall be compiled by July 1, 2023. Reports
6 compiled under this section are exempt from public disclosure.

7 (3) (a) Upon availability, the administrator shall provide
8 completed installments of the report of convictions and
9 nonconvictions to local public defense offices, the Washington state
10 office of public defense, county prosecutors, and the superior court
11 clerk or district court administrator. Local public defense offices
12 shall provide initial review of cause numbers compiled under
13 subsection (2) (a) through (c) of this section to determine whether a
14 person's conviction is subject to vacation under the *Blake* decision
15 and to provide an initial assessment as to case priority, unless the
16 local jurisdiction requests such review from the Washington state
17 office of public defense. Following such review, the local office of
18 public defense or the Washington state office of public defense will
19 provide the appropriate local prosecutor with a list of cause numbers
20 compiled under subsection (2) (a) through (c) of this section to be
21 prioritized for *Blake* relief. Individuals currently under the
22 jurisdiction of the department of corrections, whose possession
23 vacations would result in a shortened sentence, are to be prioritized
24 for resentencing.

25 (b) The county prosecutor shall review each cause number on the
26 report compiled under subsection (2) (d) of this section to determine
27 whether a person's conviction was for simple drug possession, or
28 whether a person's nonconviction resulted from an underlying charge
29 for simple drug possession. When a person, or his or her legal
30 representative, informs the prosecutor that he or she is facing
31 immigration consequences such as deportation or bars to obtaining
32 lawful status, the prosecutor shall prioritize the case. The
33 prosecutor shall also prioritize cause numbers compiled under reports
34 provided by local public defense offices or the Washington state
35 office of public defense.

36 (c) When the prosecutor determines that a conviction is subject
37 to vacation and appropriate for vacation, the prosecutor shall
38 prepare an ex parte motion on behalf of the state under CrR 7.8 or
39 CrRLJ 7.8 that asks the court to vacate the person's prior
40 convictions for simple drug possession. Such a motion shall expressly

1 state the motion is pursuant to *State v. Blake's* holding that RCW
2 69.50.4013 is unconstitutional. By filing such a motion, the
3 prosecutor agrees not to file additional or new charges for the acts
4 described in the information. For nonconviction cases with an
5 underlying *Blake* charge, the prosecutor shall bring an ex parte
6 motion to refund legal financial obligations and collection costs
7 paid under the cause number. If the prosecutor determines that a
8 conviction or nonconviction data is improperly included on the report
9 due to a clerical error because the actual conviction on the judgment
10 and sentence is not a conviction for simple drug possession, the
11 prosecutor shall file a "Notice of *Blake* Correction" with the
12 superior court clerk or the district court administrator and send
13 notice to the affected person at the person's last known address. A
14 copy shall also be sent to the local office of public defense or
15 local defense administrator, or where no local office or local
16 administrator exists, notice shall be sent to the Washington state
17 office of public defense. Absent vacation of the prior conviction for
18 simple drug possession by ex parte motion, nothing in this section
19 precludes the prosecutor from filing additional or new charges where
20 allowed by law.

21 (d) If the person is indigent as defined in RCW 10.101.010, the
22 court or the responsible local public defense authority shall appoint
23 counsel, upon request, to a person who has been precluded from
24 obtaining a vacation to assist the person in understanding the
25 person's options for challenging the decision, and to assist the
26 person in bringing a good faith challenge to the decision. For the
27 purposes of this chapter, incarcerated persons are presumed indigent.

28 (4) The court shall consider the prosecutor's motion to vacate on
29 paper without the presence of the prosecutor. If the court vacates a
30 conviction for simple drug possession, the fact that the person has
31 been convicted of the offense shall not be included in the person's
32 criminal history for purposes of determining a sentence in any
33 subsequent conviction, and the person shall be released from all
34 penalties and disabilities resulting from the offense. For all
35 purposes, including responding to questions on employment
36 applications, a person whose conviction has been vacated may state
37 that the person has never been convicted of that crime. A conviction
38 that has been vacated under this section may not be disseminated or
39 disclosed by the Washington state patrol or local law enforcement
40 agency to any person.

1 (5) (a) A court vacating a conviction for simple drug possession
2 shall address whether legal financial obligations must be refunded to
3 the person.

4 (i) When the sole crime of conviction under a cause number is
5 simple drug possession, the court shall order a refund of all legal
6 financial obligations and collection costs paid under that cause
7 number. Nothing in this act limits the ability of an affected person
8 to challenge the refund amount as insufficient upon actual notice of
9 the refund amount. The affected person will have a right to the
10 assistance of counsel in reviewing the determination and in bringing
11 a good faith challenge in the court that issued the order.

12 (ii) Where a cause number includes both convictions for simple
13 drug possession and other offenses not subject to vacation under the
14 *Blake* decision, legal financial obligations and collection costs paid
15 under that cause number shall not be refunded except where it is
16 clear on the face of the judgment and sentence that a legal financial
17 obligation arose solely from a vacated simple drug possession
18 conviction.

19 (b) For motions in nonconviction cause numbers, the court shall
20 order a refund of the legal financial obligations and collection
21 costs assessed to the defendant as part of a diversion program,
22 deferred sentence, or similar program, including drug or other
23 therapeutic court, and actually paid by the defendant or on the
24 defendant's behalf.

25 (c) Nothing in this act limits the ability of an affected person
26 to challenge the refund amount as insufficient upon actual notice of
27 the refund amount. Where indigent, the affected person will have a
28 right to the assistance of counsel in reviewing the determination and
29 in bringing a good faith challenge in the court that issued the
30 order.

31 (d) If the court determines that a refund of legal financial
32 obligations and collection costs is appropriate, the vacation order
33 shall direct the superior court clerk or district court administrator
34 to cancel any unpaid legal financial obligation and collection cost
35 balances. The order shall further direct the superior court clerk or
36 district court administrator to compute all legal financial
37 obligations and collection costs paid by the person that arise from
38 the vacated counts or from a nonconviction, which amounts shall be
39 certified by the superior court clerk or the district court
40 administrator. A copy of the certification shall be sent to the

1 administrator of the administrative office of the courts. Upon
2 application to the superior court clerk or district court
3 administrator and verification of the person's identity, the court
4 clerk or administrator may initiate payment of the refund amount out
5 of funds appropriated by the state for this purpose. Following
6 issuance of a refund under a cause number, the court clerk or
7 administrator shall update the case file.

8 (6) Where it is necessary to resentence a person or amend the
9 existing sentence in connection with a vacation, the matter will
10 proceed under the court rules with notice to the defendant. Defense
11 counsel shall be appointed where required by law. If the person is
12 indigent as defined in RCW 10.101.010, the court or the responsible
13 local public defense authority shall appoint counsel. For the
14 purposes of this chapter, incarcerated persons are presumed indigent.
15 The court shall notify the local office of public defense or local
16 defense administrator, or where no local office or local
17 administrator exists, notice shall be sent to the Washington state
18 office of public defense. Nothing in this act limits the court's
19 sentencing authority or its authority to resentence.

20 (7) The prosecutor shall take action to quash judicial warrants
21 based solely on underlying charges for simple drug possession or
22 other offenses where a conviction for simple drug possession serves
23 as an element of the crime. Within nine months of the effective date
24 of this section, the prosecutor shall certify to the administrator of
25 the administrative office of the courts that all such warrants have
26 been submitted to a judicial officer for action quashing the warrant.
27 If exceptional circumstances apply, and a prosecutor cannot meet the
28 nine-month deadline, the prosecutor shall provide an estimate for a
29 reasonable extension to the administrator of the administrative
30 office of the courts.

31 (8) Within appropriated funds, the administrator of the
32 administrative office of the courts shall contract with each county
33 to ensure sufficient availability of clerks, prosecutors, defenders,
34 judicial officers, and courtroom space. The director of the state
35 office of public defense shall contract with each county to ensure
36 sufficient availability of defenders to complete all work required by
37 this section within five years of the effective date of this section.
38 Contracts to complete resentencing, vacation, and refund work under
39 this act may be based on actual time or upon the average time
40 necessary to complete a task. The work required by this section is

1 deemed complete when all warrants have been quashed and all cause
2 numbers on the report have been dismissed, vacated, resentenced, or
3 otherwise addressed through a "Notice of *Blake* Correction." The
4 superior court clerk or district court administrator shall track
5 resolution of all cause numbers on the report. On a quarterly basis,
6 the superior court clerk and the district court administrator shall
7 report the following to the administrator of the administrative
8 office of the courts: (a) Vacated cause numbers; (b) resentenced
9 cause numbers; (c) cases where the prosecutor has filed a "Notice of
10 *Blake* Correction"; and (d) the number of cases on the report awaiting
11 action.

12 (9) Nothing in this section precludes a person from filing a
13 motion under his or her own criminal cause number to vacate a prior
14 conviction for simple drug possession or be resentenced pursuant to
15 *Blake*. Defense counsel shall be appointed where required by law. If
16 the person is indigent as defined in RCW 10.101.010, the court or the
17 responsible local public defense authority shall appoint counsel. For
18 the purposes of this chapter, incarcerated persons are presumed
19 indigent. The court shall notify the local office of public defense
20 or local defense administrator, or where no local office or local
21 administrator exists, notice shall be sent to the Washington state
22 office of public defense. A motion for resentencing or vacation under
23 *Blake* is not subject to the restrictions in chapter 10.73 RCW and
24 does not adversely impact the defendant's ability to bring subsequent
25 collateral attacks on different grounds. Nothing in this section
26 precludes a person from appealing any order entered under this
27 section.

28 NEW SECTION. **Sec. 4.** MUNICIPAL COURT VACATIONS. (1) Within six
29 months of the effective date of this section, each city with a
30 municipal court shall determine whether the *Blake* decision applies to
31 any municipal convictions for simple drug possession since 1971. If
32 requested by the city, the administrator of the administrative office
33 of the courts shall coordinate with the municipal court administrator
34 to develop a comprehensive report for each city of all persons with
35 existing convictions for simple drug possession since 1971. The
36 report will be based on available court records and list convictions
37 and nonconvictions chronologically by cause number in a readily
38 searchable and sortable format. For each cause number subject to the
39 *Blake* decision, the report shall include the person's name, birth

1 date, last known address, date of the judgment and sentence or
2 dismissals pursuant to successful completion of a diversion program,
3 a listing of all conviction counts for simple drug possession in the
4 judgment and sentence or dismissal, and a listing of all counts for
5 other offenses in the judgment and sentence. The administrator will
6 indicate any period of time where court records are unavailable. The
7 municipal court administrator shall develop a similar report of all
8 sealed cases of persons convicted of simple drug possession since
9 1971.

10 (2) In compiling the report, the administrator, with the
11 assistance of the department of corrections and the municipal court
12 administrator, shall prioritize cases in the following order: (a) The
13 person is incarcerated due to a qualifying conviction; (b) the person
14 is incarcerated with a qualifying conviction in the person's criminal
15 history score; (c) the person is under active or inactive
16 supervision; and (d) the person has a past conviction or
17 nonconviction for a qualifying offense. Within six months of the
18 city's request under subsection (1) of this section, for court
19 records that are available to court personnel electronically, the
20 administrator shall complete the report for persons under (a), (b),
21 or (c) of this subsection. For persons under (d) of this subsection,
22 for court records that are available to court personnel
23 electronically, the administrator shall complete the report within
24 nine months of the city's request under subsection (1) of this
25 section. Any nonelectronic court records, to include paper records or
26 records found on microfiche, shall be compiled by July 1, 2023.
27 Reports compiled under this section are exempt from public
28 disclosure.

29 (3) (a) Upon availability, the administrator shall provide
30 completed installments of the report of convictions and
31 nonconvictions to the local public defense offices, the Washington
32 state office of public defense, city prosecutors, and the municipal
33 court administrator. Local public defense offices shall provide
34 initial review of cause numbers compiled under subsection (2) (a)
35 through (c) of this section to determine whether a person's
36 conviction is subject to vacation under the *Blake* decision and to
37 provide an initial assessment as to case priority, unless the local
38 jurisdiction requests such review from the Washington state office of
39 public defense. Following such review, the local office of public
40 defense or the Washington state office of public defense will provide

1 the appropriate local prosecutor with a list of cause numbers
2 compiled under subsection (2)(a) through (c) of this section to be
3 prioritized for *Blake* relief. Individuals currently under the
4 jurisdiction of the department of corrections, whose possession
5 vacations would result in a shortened sentence, are to be prioritized
6 for resentencing.

7 (b) The city prosecutor shall review each cause number on the
8 report compiled under subsection (2)(d) of this section to determine
9 whether a person's conviction was for simple drug possession, or
10 whether a person's nonconviction resulted from an underlying charge
11 for simple drug possession. When a person, or the person's legal
12 representative, informs the prosecutor that the person is facing
13 immigration consequences, such as deportation or bars to obtaining
14 lawful status, the prosecutor shall prioritize the case. The
15 prosecutor shall also prioritize cause numbers compiled under reports
16 provided by local public defense offices or the Washington state
17 office of public defense.

18 (c) When the city prosecutor determines that a conviction is
19 subject to vacation and appropriate for vacation, the prosecutor
20 shall prepare an ex parte motion under CrRLJ 7.8 asking the court to
21 vacate the person's prior conviction or convictions for simple drug
22 possession. Such a motion shall expressly state the motion is
23 pursuant to *State v. Blake's* holding that RCW 69.50.4013 is
24 unconstitutional. By filing such a motion, the prosecutor agrees not
25 to file additional charges for the acts described in the information.
26 For nonconviction cases with an underlying *Blake* charge, the
27 prosecutor shall bring an ex parte motion to refund legal financial
28 obligations and collection costs paid under the cause number. If the
29 prosecutor determines that a conviction or nonconviction data is
30 improperly included on the report due to a clerical error because the
31 actual conviction on the judgment and sentence is not a conviction
32 for simple drug possession, the prosecutor shall file a "Notice of
33 *Blake* Correction" with the municipal court administrator and send
34 notice to the affected person at the person's last known address. A
35 copy shall also be sent to the local office of public defense or
36 local defense administrator, or where no local office or local
37 administrator exists, notice shall be sent to the Washington state
38 office of public defense. Absent vacation of the prior conviction for
39 simple drug possession by ex parte motion, nothing in this section

1 precludes the prosecutor from filing additional or new charges where
2 allowed by law.

3 (d) If a person is indigent as defined in RCW 10.101.010, the
4 court or the responsible local public defense authority shall appoint
5 counsel, upon request, to a person who has been precluded from
6 obtaining a vacation to assist the person in understanding the
7 person's options for challenging the decision, and to assist the
8 person in bringing a good faith challenge to the decision. For the
9 purposes of this chapter, incarcerated persons are presumed indigent.

10 (4) The court shall consider the prosecutor's motion to vacate on
11 paper without the presence of the prosecutor. If the court vacates a
12 conviction for simple drug possession, the fact that the person has
13 been convicted of the offense shall not be included in the person's
14 criminal history for purposes of determining a sentence in any
15 subsequent conviction, and the person shall be released from all
16 penalties and disabilities resulting from the offense. For all
17 purposes, including responding to questions on employment
18 applications, a person whose conviction has been vacated may state
19 that the person has never been convicted of that crime. A conviction
20 that has been vacated under this section may not be disseminated or
21 disclosed by the Washington state patrol or local law enforcement
22 agency to any person.

23 (5) (a) A court vacating a conviction for simple drug possession
24 shall address whether legal financial obligations must be refunded to
25 the person.

26 (i) When the sole crime of conviction under a cause number is
27 simple drug possession, the court shall order a refund of all legal
28 financial obligations and collection costs paid under that cause
29 number. Nothing in this act limits the ability of an affected person
30 to challenge the refund amount as insufficient upon actual notice of
31 the refund amount. The affected person will have a right to the
32 assistance of counsel in reviewing the determination and in bringing
33 a good faith challenge in the court that issued the order.

34 (ii) Where a cause number includes both convictions for simple
35 drug possession and other offenses not subject to vacation under the
36 *Blake* decision, legal financial obligations and collection costs paid
37 under that cause number shall not be refunded except where it is
38 clear on the face of the judgment and sentence that a legal financial
39 obligation arises solely from a vacated simple drug possession
40 conviction.

1 (b) For motions in nonconviction cause numbers, the court shall
2 order a refund of the fees assessed to the defendant as part of a
3 diversion program, deferred sentence, or similar program, and
4 actually paid by the defendant or on the defendant's behalf.

5 (c) Nothing in this act limits the ability of an affected person
6 to challenge the refund amount as insufficient upon actual notice of
7 the refund amount. Where indigent, the affected person will have a
8 right to the assistance of counsel in reviewing the determination and
9 in bringing a good faith challenge in the court that issued the
10 order.

11 (d) If the court determines that a refund of legal financial
12 obligations and collection costs is appropriate, the vacation order
13 shall direct the municipal court administrator to cancel any unpaid
14 legal financial obligation and collection cost balances. The order
15 shall further direct the municipal court administrator to compute all
16 legal financial obligations and collection costs paid by the person
17 that arise from the vacated counts or from a nonconviction, which
18 amounts shall be certified by the municipal court administrator. A
19 copy of the certification shall be sent to the administrator of the
20 administrative office of the courts. Upon application to the
21 municipal court administrator and verification of the person's
22 identity, the municipal court administrator may initiate payment of
23 the refund amount out of funds appropriated by the state for this
24 purpose. Following issuance of a refund under a cause number, the
25 administrator shall update the case file.

26 (6) Where it is necessary to resentencing a person or amend the
27 existing sentence in connection with a vacation, the matter will
28 proceed under the court rules with notice to the defendant. Defense
29 counsel shall be appointed where required by law. If the person is
30 indigent as defined in RCW 10.101.010, the court or the responsible
31 local public defense authority shall appoint counsel. For the
32 purposes of this chapter, incarcerated persons are presumed indigent.
33 The court shall notify the local office of public defense or local
34 defense administrator, or where no local office or local
35 administrator exists, notice shall be sent to the Washington state
36 office of public defense. Nothing in this act limits the court's
37 sentencing authority or its authority to resentencing.

38 (7) The prosecutor shall take action to quash any judicial
39 warrants based solely on underlying charges for simple drug
40 possession or other offenses where a conviction for simple drug

1 possession is an element of the crime. Within nine months of the
2 effective date of this section, the prosecutor shall certify to the
3 administrator of the administrative office of the courts that all
4 such warrants have been submitted to a judicial officer for action
5 quashing the warrant. If exceptional circumstances apply, and a
6 prosecutor cannot meet the nine-month deadline, the prosecutor shall
7 provide an estimate for a reasonable extension to the administrator
8 of the administrative office of the courts.

9 (8) Within appropriated funds, the administrator of the
10 administrative office of the courts shall contract with each city to
11 ensure sufficient availability of clerks, prosecutors, defenders,
12 judicial officers, and courtroom space to complete all work required
13 by this section within five years of the effective date of this
14 section. Contracts to complete resentencing, vacation, and refund
15 work under this act may be based on actual time or upon the average
16 time necessary to complete a task. The work required by this section
17 is deemed complete when all warrants have been quashed and all cause
18 numbers on the report have been dismissed, vacated, resentenced, or
19 otherwise addressed through a "Notice of *Blake* Correction." The
20 municipal court administrator shall track resolution of all cause
21 numbers on the report. On a quarterly basis, the municipal court
22 administrator shall report the following to the administrator of the
23 administrative office of the courts: (a) Vacated cause numbers; (b)
24 resentenced cause numbers; (c) cases where the prosecutor has filed a
25 "Notice of *Blake* Correction"; and (d) the number of cases on the
26 report awaiting action.

27 (9) Nothing in this section precludes a person from filing a
28 motion under his or her own criminal cause number to vacate a prior
29 conviction for simple drug possession or be resentenced pursuant to
30 *Blake*. Defense counsel shall be appointed where required by law. If
31 the person is indigent as defined in RCW 10.101.010, the court or the
32 responsible local public defense authority shall appoint counsel. For
33 the purposes of this chapter, incarcerated persons are presumed
34 indigent. The court shall notify the local office of public defense
35 or local defense administrator, or where no local office or local
36 administrator exists, notice shall be sent to the Washington state
37 office of public defense. A motion for resentencing or vacation under
38 *Blake* is not subject to the restrictions in chapter 10.73 RCW and
39 does not adversely impact the defendant's ability to bring a
40 subsequent collateral attack on different grounds. Nothing in this

1 section precludes a person from appealing any order entered under
2 this section.

3 NEW SECTION. **Sec. 5.** LEGAL FINANCIAL OBLIGATION REFUNDS. (1) (a)
4 The administrator of the administrative office of the courts shall
5 receive copies of certifications of legal financial obligations and
6 collection costs paid by persons that arise from the vacation of
7 convictions or nonconvictions for simple drug possession in the
8 superior, district, or municipal courts. The administrator shall
9 publicize the availability of refunds and the process for obtaining
10 those refunds and shall create a searchable online database for
11 persons to search whether amounts may be owed to them.

12 (b) The administrator shall provide specific notice to persons
13 still living whom the superior court clerk, district court
14 administrator, or municipal court administrator has certified under
15 section 3 or 4 of this act are due refunds of legal financial
16 obligations and collection costs. Such notice shall be accomplished
17 by first-class mail to the person's last known address. To determine
18 the last known address, the administrator may consult databases
19 maintained by the department of corrections and the department of
20 licensing.

21 (c) The administrator, in coordination with the superior court
22 clerks, district court administrators, and municipal court
23 administrators, shall create a model application form that may be
24 used for persons to submit to the court for purposes of obtaining a
25 refund.

26 (2) Within appropriated funds, the administrator shall contract
27 with each county for reimbursement of legal financial obligations and
28 collection costs paid by the superior court clerk, the district court
29 administrator, or the municipal court administrator.

30 (3) The process established in this act is the exclusive means to
31 obtain a refund of any legal financial obligations and collection
32 costs paid by a person with a prior or vacated conviction or
33 nonconviction for simple drug possession. No civil action may be
34 filed against the state, counties, or cities that have requested
35 assistance under section 4(1) of this act, nor may such an action be
36 filed against any officials, employees, or agents of those entities
37 seeking a refund of legal financial obligations and collection costs,
38 other damages, or any other type of relief in connection with a prior
39 or vacated conviction or nonconviction for simple drug possession.

1 (4) Any person seeking a refund of legal financial obligations
2 and collection costs arising from a vacated conviction or
3 nonconviction for simple drug possession shall have seven years from
4 the effective date of this section to request a refund from the
5 appropriate court. Any legal financial obligations and collection
6 costs that have not been claimed within this seven-year period will
7 escheat to the state.

8 NEW SECTION. **Sec. 6.** UNAVAILABLE COURT RECORDS. (1) Except
9 where court records are no longer available, court records showing
10 crimes of conviction or nonconviction and legal financial obligation
11 and collection cost payments are presumptively correct. A person
12 seeking to rebut this presumption may do so only by clear and
13 convincing evidence.

14 (2) A person seeking vacation of a conviction within the time
15 period where court records are unavailable may prove the existence of
16 the conviction through a declaration accompanied by copies of a
17 judgment and sentence, or official records reporting the conviction.
18 Upon proof deemed adequate by the court, such a conviction is subject
19 to potential vacation under section 3 or 4 of this act.

20 (3) A person seeking a refund of legal financial obligations and
21 collection costs within the time period where court records are
22 unavailable may prove the existence of payments by declaration
23 accompanied by direct or secondary sources demonstrating payment.

24 (4) Any person contesting the existence of a conviction for
25 simple drug possession or the amounts due for refund shall bring the
26 matter before the court of conviction or nonconviction.

27 NEW SECTION. **Sec. 7.** WASHINGTON STATE PATROL. When presented
28 with an order vacating a prior conviction for simple drug possession,
29 the Washington state patrol shall remove any convictions covered by
30 the vacation order from all criminal record information systems
31 maintained by the Washington state patrol. In addition, the
32 Washington state patrol shall report the vacated convictions to
33 relevant federal authorities.

34 NEW SECTION. **Sec. 8.** LIMITATION ON LIABILITY. The state, its
35 agencies, and its municipal subdivisions, as well as officials,
36 employees, and agents of those entities, shall not be civilly liable
37 for performing any duties pursuant to this act: PROVIDED, That such

1 duties were performed in good faith and without gross negligence.
2 Nothing in this section limits any statutory or common law immunity
3 otherwise applicable to the state, its agencies, and its municipal
4 subdivisions, as well as officials, employees, and agents of those
5 entities.

6 **Sec. 9.** RCW 72.09.480 and 2015 c 238 s 1 are each amended to
7 read as follows:

8 (1) Unless the context clearly requires otherwise, the
9 definitions in this section apply to this section.

10 (a) "Cost of incarceration" means the cost of providing an inmate
11 with shelter, food, clothing, transportation, supervision, and other
12 services and supplies as may be necessary for the maintenance and
13 support of the inmate while in the custody of the department, based
14 on the average per inmate costs established by the department and the
15 office of financial management.

16 (b) "Minimum term of confinement" means the minimum amount of
17 time an inmate will be confined in the custody of the department,
18 considering the sentence imposed and adjusted for the total potential
19 earned early release time available to the inmate.

20 (c) "Program" means any series of courses or classes necessary to
21 achieve a proficiency standard, certificate, or postsecondary degree
22 or certificate education program.

23 (2) When an inmate, except as provided in subsections (4)
24 (~~and~~), (8), and (9) of this section, receives any funds in addition
25 to his or her wages or gratuities, except settlements or awards
26 resulting from legal action, the additional funds shall be subject to
27 the following deductions and the priorities established in chapter
28 72.11 RCW:

29 (a) Five percent to the crime victims' compensation account
30 provided in RCW 7.68.045;

31 (b) Ten percent to a department personal inmate savings account;

32 (c) Twenty percent for payment of legal financial obligations for
33 all inmates who have legal financial obligations owing in any
34 Washington state superior court;

35 (d) Twenty percent for any child support owed under a support
36 order;

37 (e) Twenty percent to the department to contribute to the cost of
38 incarceration; and

1 (f) Twenty percent for payment of any civil judgment for assault
2 for all inmates who are subject to a civil judgment for assault in
3 any Washington state court or federal court.

4 (3) When an inmate, except as provided in subsection (9) of this
5 section, receives any funds from a settlement or award resulting from
6 a legal action, the additional funds shall be subject to the
7 deductions in RCW 72.09.111(1)(a) and the priorities established in
8 chapter 72.11 RCW.

9 (4) When an inmate who is subject to a child support order
10 receives funds from an inheritance, the deduction required under
11 subsection (2)(e) and (f) of this section shall only apply after the
12 child support obligation has been paid in full.

13 (5) The amount deducted from an inmate's funds under subsection
14 (2) of this section shall not exceed the department's total cost of
15 incarceration for the inmate incurred during the inmate's minimum or
16 actual term of confinement, whichever is longer.

17 (6)(a) The deductions required under subsection (2) of this
18 section shall not apply to funds received by the department from an
19 (~~offender~~) incarcerated individual or from a third party on behalf
20 of an (~~offender~~) incarcerated individual for payment of education
21 or vocational programs or postsecondary (~~education~~) degree or
22 certificate education programs as provided in RCW 72.09.460 and
23 72.09.465.

24 (b) The deductions required under subsection (2) of this section
25 shall not apply to funds received by the department from a third
26 party, including but not limited to a nonprofit entity on behalf of
27 the department's education, vocation, or postsecondary (~~education~~)
28 degree or certificate education programs.

29 (7) The deductions required under subsection (2) of this section
30 shall not apply to any money received by the department, on behalf of
31 an inmate, from family or other outside sources for the payment of
32 postage expenses. Money received under this subsection may only be
33 used for the payment of postage expenses and may not be transferred
34 to any other account or purpose. Money that remains unused in the
35 inmate's postage fund at the time of release shall be subject to the
36 deductions outlined in subsection (2) of this section.

37 (8) The deductions required under subsection (2) of this section
38 do not apply to any money received by the department on behalf of an
39 inmate from family or other outside sources for the payment of
40 certain medical expenses. Money received under this subsection may

1 only be used for the payment of medical expenses associated with the
2 purchase of eyeglasses, over-the-counter medications, and
3 (~~offender~~) incarcerated individual copayments. Funds received
4 specifically for these purposes may not be transferred to any other
5 account or purpose. Money that remains unused in the inmate's medical
6 fund at the time of release is subject to deductions under subsection
7 (2) of this section.

8 (9) Legal financial obligations reimbursed pursuant to *State v.*
9 *Blake* are exempt from the deductions requirements in subsection (2)
10 of this section when the defendant is in custody in a correctional
11 facility.

12 (10) Inmates sentenced to life imprisonment without possibility
13 of release or sentenced to death under chapter 10.95 RCW receives
14 funds, deductions are required under subsection (2) of this section,
15 with the exception of a personal inmate savings account under
16 subsection (2)(b) of this section.

17 (~~(10)~~) (11) The secretary of the department of corrections, or
18 his or her designee, may exempt an inmate from a personal inmate
19 savings account under subsection (2)(b) of this section if the
20 inmate's earliest release date is beyond the inmate's life
21 expectancy.

22 (~~(11)~~) (12) The interest earned on an inmate savings account
23 created as a result of the plan in section 4, chapter 325, Laws of
24 1999 shall be exempt from the mandatory deductions under this section
25 and RCW 72.09.111.

26 (~~(12)~~) (13) Nothing in this section shall limit the authority
27 of the department of social and health services division of child
28 support, the county clerk, or a restitution recipient from taking
29 collection action against an inmate's moneys, assets, or property
30 pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but
31 not limited to, the collection of moneys received by the inmate from
32 settlements or awards resulting from legal action.

33 **Sec. 10.** RCW 72.09.450 and 2015 c 225 s 113 are each amended to
34 read as follows:

35 (1) An inmate shall not be denied access to services or supplies
36 required by state or federal law solely on the basis of his or her
37 inability to pay for them.

38 (2) The department shall record all lawfully authorized
39 assessments for services or supplies as a debt to the department. The

1 department shall recoup the assessments when the inmate's
2 institutional account exceeds the indigency standard, and may pursue
3 other remedies to recoup the assessments after the period of
4 incarceration.

5 (3) The department shall record as a debt any costs assessed by a
6 court against an inmate plaintiff where the state is providing
7 defense pursuant to chapter 4.92 RCW. The department shall recoup the
8 debt when the inmate's institutional account exceeds the indigency
9 standard and may pursue other remedies to recoup the debt after the
10 period of incarceration.

11 (4) In order to maximize the cost-efficient collection of unpaid
12 offender debt existing after the period of an offender's
13 incarceration, the department is authorized to use the following
14 nonexclusive options: (a) Use the collection services available
15 through the department of enterprise services, or (b) notwithstanding
16 any provision of chapter 41.06 RCW, contract with collection agencies
17 for collection of the debts. The costs for enterprise services or
18 collection agency services shall be paid by the debtor. Any contract
19 with a collection agency shall only be awarded after competitive
20 bidding. Factors the department shall consider in awarding a
21 collection contract include but are not limited to a collection
22 agency's history and reputation in the community; and the agency's
23 access to a local database that may increase the efficiency of its
24 collections. The servicing of an unpaid obligation to the department
25 does not constitute assignment of a debt, and no contract with a
26 collection agency may remove the department's control over unpaid
27 obligations owed to the department.

28 (5) Legal financial obligations reimbursed pursuant to *State v.*
29 *Blake* are exempt from the recoupment requirements of subsection (2)
30 of this section when the defendant is in custody in a correctional
31 facility, but may be recouped at release from confinement.

32 NEW SECTION. **Sec. 11.** EMERGENCY CLAUSE. This act is necessary
33 for the immediate preservation of the public peace, health, or
34 safety, or support of the state government and its existing public
35 institutions, and takes effect immediately.

1 NEW SECTION. **Sec. 12.** CODIFICATION DIRECTIVE. Sections 1
2 through 8 and 11 of this act constitute a new chapter in Title 10
3 RCW.

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