

FINAL BILL REPORT

ESHB 1169

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Synopsis as Enacted

Brief Description: Concerning legal financial obligations.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Simmons, Taylor, Berry, Bateman, Goodman, Wylie, Santos and Ormsby).

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

Background:

When an adult defendant is convicted or a juvenile is adjudicated of a criminal offense, the court may impose legal financial obligations (LFOs) as part of the judgment and sentence. Legal financial obligations include: victim restitution, court costs, costs associated with the defendant's prosecution and sentence, criminal offense fines, and other fees, penalties, and assessments. Some types of LFOs are mandatory and must be imposed by the court, including the crime victim penalty assessment and the DNA database fee.

Crime Victim Penalty Assessment.

A crime victim penalty assessment must be imposed on any adult convicted of a criminal offense in superior court, with some exceptions for vehicle-related offenses. The penalty assessment is \$500 in the case of a felony or gross misdemeanor offense and \$250 in the case of a misdemeanor offense. A juvenile offender who is found to have committed a most serious offense must be assessed a penalty assessment in the amount of \$100. One hundred percent of the crime victim penalty assessment amounts received are transferred to the county treasurer for the support of comprehensive programs to encourage and facilitate testimony by crime victims and witnesses.

DNA Database Fee.

A biological sample must be collected for purposes of DNA identification analysis from

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every person convicted of a felony or certain other offenses, and the court must impose a \$100 fee as part of the sentence for the offense. The court is not required to impose the DNA database fee if the state has previously collected the offender's DNA as a result of a prior conviction. Eighty percent of the fee is deposited into the DNA Database Account, and 20 percent of the fee is transmitted to the local agency that collected the biological sample. Money in the DNA Database Account may be expended by the chief of the Washington State Patrol or the chief's designee only for the creation, operation, and maintenance of the DNA database.

Ability to Pay Legal Financial Obligations.

A number of provisions governing the imposition and enforcement of LFOs take into consideration the defendant's ability to pay, and provide that a defendant who is indigent does not have the ability to pay. For these purposes, a defendant is "indigent" if the defendant:

- is receiving certain types of public assistance;
- is involuntarily committed to a public mental health facility;
- is receiving an annual income after taxes of 125 percent of the federal poverty level;
- is homeless or mentally ill as defined under the Sentencing Reform Act;
- 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.

Summary:

Crime Victim Penalty Assessment.

The crime victim penalty assessment is eliminated for juveniles. Upon motion, the court must waive any crime victim penalty assessment previously imposed upon a juvenile. For an adult defendant convicted of an offense, the court must not impose the crime victim penalty assessment if the court finds that the defendant is indigent at the time of sentencing. Upon motion, the court must waive any crime victim penalty assessment previously imposed against an adult defendant who does not have the ability to pay. A person does not have the ability to pay if the person is indigent. Provisions indicating the crime victim penalty assessment may not be reduced, waived, or converted to community restitution hours are removed.

A new Crime Victim and Witness Assistance (CVWA) Account is created in the State Treasury to mitigate the fiscal impact from elimination of the crime victim penalty assessment on juveniles and indigent adults. The account must consist of funds appropriated by the Legislature for comprehensive crime victim and witness programs. Every quarter, the State Treasurer must distribute moneys in the account to counties on the basis of a distribution factor that is based on a combination of factors, including population, crime rate, and criminal filings. Counties may use the funds only for comprehensive crime victim and witness programs.

The Administrative Office of the Courts (AOC) must review revenue collection data to provide a more accurate assessment of the fiscal impact of eliminating the crime victim penalty assessment for juveniles and indigent adults, and to report its findings to the Legislature by February 1, 2025, to inform future distributions to the CVWA Account.

DNA Database Fee.

The DNA database fee is eliminated. Upon motion of the offender, the court must waive any DNA database fee previously imposed upon the defendant. Any amounts collected for DNA database fees imposed prior to the effective date of the act will continue to be distributed as follows: 80 percent into the DNA Database Account and 20 percent to the agency collecting the DNA sample.

The DNA Database Account must consist of funds appropriated by the Legislature for operation and maintenance of the DNA database as well as any receipts from previously imposed DNA database fees. The Washington State Patrol may expend funds in the account only for maintenance and operation of the DNA database.

Juvenile Offense Proceedings.

No fine, administrative fee, cost, or surcharge may be imposed or collected by the court or any agent of the court against any juvenile or a juvenile's parent or guardian, or other person having custody of the juvenile, in connection with any juvenile offender proceeding. A judgment against a juvenile for LFOs other than restitution is not enforceable, and the superior court clerk must not accept any non-restitution LFO payments from a juvenile, after the effective date of act. Courts are not required to refund or reimburse amounts previously paid towards LFOs, interest on LFOs, or any other costs.

A juvenile or a juvenile's parent, guardian, or custodian may not be required to pay the cost of an evaluation or treatment of a juvenile offender ordered for purposes of a special sex offender disposition alternative or a substance use disorder or mental health disposition alternative. A court must find good cause to order a second examination regarding a juvenile offender's amenability to treatment for purposes of a special sex offender disposition alternative.

Provisions that establish or refer to non-restitution LFOs are revised or repealed.

Other.

The AOC, in consultation with county clerks, must review the grant program that provides funds to counties for county clerk collection budgets to determine if the grant program continues to serve its intended purpose in light of legislative changes to LFOs, and to report its findings to the Legislature by December 1, 2023.

Votes on Final Passage:

House 56 41
Senate 30 19 (Senate amended)
House 56 42 (House concurred)

Effective: July 1, 2023
Contingent (Section 15)