
Civil Rights & Judiciary Committee

HB 1499

Brief Description: Concerning legal financial obligations.

Sponsors: Representatives Reed, Goodman, Mena, Scott, Entenman, Cortes, Farivar, Taylor, Berry, Ortiz-Self, Lekanoff, Doglio, Ryu, Peterson, Parshley, Ormsby, Macri, Pollet, Hill and Salahuddin.

Brief Summary of Bill

- Provides that costs may not be imposed against a defendant in a criminal case except as specifically authorized by statute, and eliminates or repeals a number of provisions that authorize imposition of costs or fees.
- Repeals the statute that authorizes accrual of interest on restitution judgments, standards for not imposing interest on restitution, and requirements for waiver of accrued interest on legal financial obligations.
- Makes debts for costs, fees, and accrued interest eliminated by the act null and void and considered satisfied and paid in full by July 1, 2028, according to a specified schedule.
- Allows the presiding judge of a superior court to authorize an administrative process to waive uncollectible outstanding debt and authorizes the superior court clerk to seek a judicial order to waive uncollectible outstanding debt.

Hearing Date: 1/28/25

Staff: Edie Adams (786-7180).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Legal Financial Obligations.

When an adult 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, criminal offense fines, and other fees, penalties, and assessments.

Costs.

Courts in criminal cases may impose a variety of costs against the defendant. These include public defense costs, jury demand fees, criminal filing fees, bench warrant fees, deferred prosecution fees, pretrial supervision fees, incarceration costs, and other costs as ordered by the court. A court may not impose costs on a defendant who is indigent at the time of sentencing.

Court-Appointed Counsel. A defendant who is indigent may be required to contribute to the costs of court-appointed counsel where funds available to the defendant are sufficient to pay a portion of that cost. A defendant who is indigent and able to contribute must, at the time counsel is appointed, execute a promissory note and a sworn affidavit that all income and assets have been reported and that the person will immediately report any change in financial status to the court.

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 at the time of sentencing. Upon motion of a defendant, the court may waive any previously imposed criminal filing fee if the court finds the defendant is indigent.

Jury Demand Fee. A defendant convicted of an offense in superior court may be assessed a jury demand fee of \$125 for a jury of six, or \$250 for a jury of 12.

Costs of Incarceration. A court may require an offender to pay costs of incarceration unless the offender is indigent at the time of sentencing. Costs of incarceration may not exceed \$50 per day of incarceration in a prison, and the actual cost of incarceration, not to exceed \$100 per day, if incarcerated in a county jail.

Jail Booking Fee. Local correctional agencies may require each person booked at a city, county, or regional jail to pay a fee based on the jail's actual booking costs, or \$100, whichever is less. The fee is paid to the sheriff's department of the county or police chief of the city in which the jail is located, but if the person is not able to immediately pay, the fee may be assessed by the court in the jurisdiction where the charges are pending.

Appellate Costs. The superior courts, Court of Appeals, and Supreme Court are statutorily authorized to require an adult offender convicted of an offense to pay appellate costs. Appellate costs are limited to expenses specifically incurred by the state in prosecuting or defending an appeal or collateral attack from conviction, including costs for producing a verbatim report of proceedings and clerk's papers, and for recoupment of fees for court-appointed counsel.

Appellate costs must be requested in accordance with applicable court rules.

Other Costs. Other costs that may be imposed by a court include:

- costs of administering a deferred prosecution, not to exceed \$250;
- costs of administering pretrial supervision, not to exceed \$150;
- monthly assessment of up to \$100 for misdemeanor probation services;
- monthly assessment for participation in a work crew of at least \$10 per month but no more than \$50 per month, and associated costs of required urinalysis or breathalyzer monitoring;
- electronic monitoring that is required as a condition of probation or release from custody, or required under a protection order; and
- costs related to accepting credit card payments for legal financial obligations.

Restitution.

Restitution is a sum ordered by the sentencing court to be paid by the offender 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 present, past, and future ability to pay, and any assets the offender may have.

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.

Interest on Restitution.

Restitution imposed in a judgment bears interest from the date of judgment until payment at the rate applicable to civil judgments, which is currently 12 percent. The court may elect not to impose interest on restitution 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.

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. In addition, 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.

Under legislation enacted in 2018, interest does not accrue on non-restitution LFOs as of June 7, 2018. Upon motion of an offender, the court must waive all interest on non-restitution LFOs that accrued prior to June 7, 2018.

Summary of Bill:

Costs.

A court may not impose costs on a defendant except as specifically authorized by statute. Language generally authorizing courts to impose costs, and references to specific types of costs that may be imposed, are deleted. "Costs" are defined as any amount, whether designated a fee, assessment, or cost, that is imposed for the costs associated with a defendant's arrest, prosecution, detention, or supervision in connection with a criminal offense. Provisions that allow a court to impose the following costs, fees, or assessments against a defendant are eliminated or repealed:

- criminal filing fee imposed upon conviction or guilty plea;
- jury demand fee;
- costs of court-appointed counsel for defendants who are indigent and able to contribute;
- jail booking fee;
- costs of incarceration;
- costs of appeal imposed by the superior courts, Court of Appeals, and Supreme Court;
- costs of electronic monitoring required as a condition of probation or release from custody, or required under a protection order;
- costs for administering a deferred prosecution program;
- monthly assessment for misdemeanor probation services;
- monthly assessment for participation in a work crew and associated costs of required urinalysis or breathalyzer monitoring; and
- costs related to accepting credit card payments for legal financial obligations.

Interest on Restitution.

The statute that provides for accrual of interest on restitution imposed in a judgment, and that addresses standards for waiver of accrued interest on legal financial obligations, is repealed.

Unenforceable Debts for Costs, Fees, and Interest.

A previously imposed judgment against an offender for any costs, fees, and interest on legal

financial obligations eliminated or repealed by the act is not enforceable. The court must not accept payments for such costs and fees or for any accrued interest on legal financial obligations after the effective date of the act. Any such debts are rendered null and void, and considered satisfied and paid in full by July 1, 2028, according to the following schedule:

- by June 30, 2026, debts resulting from cases filed from July 1, 2018, through June 30, 2023;
- by June 30, 2027, debts resulting from cases filed from July 1, 2013, through June 30, 2018; and
- by June 30, 2028, debts resulting from cases filed prior to July 1, 2013.

The presiding judge of a superior court is authorized to establish an administrative process to waive outstanding debt for uncollectible legal financial obligations other than restitution that ensures that these debts:

- are waived within the required deadlines;
- do not impact a person's credit; and
- do not appear in a background check.

A superior court clerk may seek a judicial order to waive uncollectible outstanding debt for costs and fees, other than restitution, and for accrued interest on legal financial obligations. A motion filed by a superior court clerk seeking to waive these debts does not constitute the practice of law.

Appropriation: None.

Fiscal Note: Requested on January 27, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.