

HOUSE BILL REPORT

HB 1499

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to legal financial obligations.

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 History:

Committee Activity:

Civil Rights & Judiciary: 1/28/25, 2/21/25 [DPS].

Brief Summary of Substitute Bill

- Provides that costs may not be imposed against a defendant in a criminal case except as specifically authorized by statute, eliminates a number of provisions that authorize imposition of costs or fees, and repeals the statute that imposes interest on restitution judgments.
- Makes debts for costs, fees, and accrued interest eliminated by the act unenforceable and considered null and void and satisfied and paid in full.
- Allows the presiding judge of a superior court to authorize an administrative process to waive uncollectible outstanding debt and the superior court clerk to seek a judicial order to waive uncollectible debt.
- Revises the definition of "indigent" for purposes of determining imposition or waiver of legal financial obligations.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.

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.

Signed by 8 members: Representatives Taylor, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson, Salahuddin, Thai and Walen.

Minority Report: Do not pass. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Abell, Assistant Ranking Minority Member; Burnett and Jacobsen.

Staff: Edie Adams (786-7180).

Background:

Legal Financial Obligations.

When an adult 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 and 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. A defendant is "indigent" if the defendant:

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

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 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 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 costs of required urinalysis or breathalyzer monitoring;
- electronic monitoring required as a condition of probation or release from custody;
- and
- costs related to accepting credit card payments for LFOs.

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 to any insurer or state agency, except restitution owed

to the Department of Labor and 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 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 nonrestitution LFOs as of June 7, 2018. Upon motion of an offender, the court must waive all interest on nonrestitution LFOs that accrued prior to June 7, 2018.

Summary of Substitute 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 that is imposed for the costs associated with a defendant's arrest, prosecution, detention, or supervision in connection with a criminal offense. The definition of "indigent" for purposes of determining whether LFOs may be imposed or waived is revised to include a person with income at or below 200 percent of the federal poverty level.

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;
- 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 LFOs.

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 LFOs, is repealed.

Unenforceable Debts for Costs, Fees, and Interest.

A previously imposed judgment against an offender for any costs, fees, and interest on LFOs eliminated or repealed by the act is not enforceable. The court must not accept payments for such costs, fees, or accrued interest on LFOs after the effective date of the act. Such debts are considered null and void and satisfied and paid in full. A clerk of the court is not required to take any action or alter any record except by judicial order.

Upon motion of an offender, the court must waive all uncollectible portions of the offender's LFOs. The presiding judge of a superior court may establish an administrative process to waive outstanding debt for uncollectible LFOs other than restitution. 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 LFOs. A motion filed by a superior court clerk seeking to waive these debts does not constitute the practice of law.

Substitute Bill Compared to Original Bill:

The substitute bill removes provisions requiring that uncollectible LFO debts must be deemed satisfied and paid in full by certain dates, and indicating that an administrative process to waive debts must ensure that the debts: are waived within statutory deadlines, do not affect a person's credit, are recalled from collections, and do not appear in a background check. Instead, the substitute bill requires a court to waive all uncollectible LFOs upon motion of an offender, and indicates that a clerk is not required to take any action or alter any record except by judicial order. The substitute bill also expands the definition of "indigent" that applies for determining imposition of LFOs and removes the provision

prohibiting a court from requiring a respondent in a protection order proceeding to pay for the costs of electronic monitoring.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) This bill builds on previous reforms to the LFO system. The bill is tailored to address poverty fees that create massive debts that are a barrier to successful reentry and reintegration of people into society after serving their time. It does not change a court's ability to impose restitution or fines for punishment, nor does it address traffic infractions.

Poverty fees are ineffective and fiscally irresponsible. Four out of five Washingtonians with LFO debt are indigent and unable to pay, so the courts never see any of this money. Last year 96 percent of public defender fees and 93 percent of incarceration fees went uncollected. The state spends about a \$1 million each year trying to collect these uncollectible debts. Eliminating these fees would have minimal fiscal impact on courts since they currently go uncollected.

These fees are applied inconsistently. More than two-thirds of courts do not follow a set policy for poverty fees, and some courts impose costs that are seven times higher than other courts for the exact same service. Past legislation to require an individual determination of ability to pay is not working, and many courts are still assessing LFOs on people with no means to pay, creating inequities across jurisdictions.

One of the biggest challenges faced by people coming out of prison is the overwhelming weight of LFOs. Indigenous people and other people of color are disproportionately impacted by the system and have a disproportionate share of LFOs. Many people have been let down by systems of care, and are often charged with crimes directly related to living in poverty. This debt makes it difficult to find stable housing, secure a job, and meet basic needs. Paying LFOs takes away resources that should be used for creating stable homes and supporting children. Debts grow into amounts that people have no hope of paying off, creating feelings of shame and constant anxiety and stress. This hurts families by weakening family ties and straining relationships. These debts create a cycle of poverty that keeps people trapped in the criminal justice system indefinitely.

Legal financial obligation debt is not an effective tool of accountability or rehabilitation. Research shows that monetary sanctions actually increase recidivism among young people.

These fees should not be used as a tool to try to change behavior, nor as a mechanism for funding the system. The court system should not be funded on the backs of poor people. It's an unfair system that results in poorer and browner criminal defendants suffering harsher consequences for the same crimes as whiter and more affluent defendants. The Legislature has made great strides by eliminating all juvenile fines and fees. Now it is time to eliminate poverty fees in the adult system.

(Opposed) None.

(Other) This bill will have a significant fiscal impact on local jurisdiction revenue. There are costs for administering deferred prosecution, pretrial supervision, and misdemeanor probation services. These programs serve an important role in efforts to reduce future criminal behavior and increase public safety. Courts do consider and remove financial barriers for indigent defendants. Please consider the impact this bill will have on courts of limited jurisdiction, especially rural courts, and local governments that choose to fund these important programs.

Persons Testifying: (In support) Representative Julia Reed, prime sponsor; Alex Hur, Statewide Poverty Action Network; Aaron Delaney; Lisa Giap; Maureen McKee; Carissa Abbott; Jacob Kuykendall, Tulalip Office of Civil Legal Aid; and Myle Tang, Stand for Children Washington.

(Other) Judge Megan Valentine, District and Municipal Court Judges' Association.

Persons Signed In To Testify But Not Testifying: Gus Patel-Tupper; Cassia Hershenow, Civil Survival; Emily Vyhnanek, Washington State Budget and Policy Center; and Zachary Jaffe.