

WSR 23-21-021
RULES OF COURT
STATE SUPREME COURT
[October 3, 2023]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1534
LEGAL FINANCIAL OBLIGATION)
(LFO) FORMS [GENERAL RULE 39])

The Pattern Forms Committee, having recommended the adoption of the suggested amendments to Legal Financial Obligation (LFO) Forms [General Rule 39], and the Court having considered the suggested amendments, and having determined that the suggested amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the suggested amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9 (j) (1), the suggested amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 3rd day of October, 2023.

Johnson, J.
Madsen, J.
Owens, J.
Stephens, J.
Gonzalez, C.J.
Gordon McCloud, J.
Yu, J.
Montoya-Lewis, J.
Whitener, J.

GENERAL RULE 9
RULE AMENDMENT COVER SHEET
PROPOSED AMENDMENT TO RULES CrR4.2(g) and GR 39

1. Proponent Organization:

Pattern Forms Committee

2. Spokesperson & Contact Info:

Commissioner Barb McInville
Pierce County Superior Court
930 Tacoma Ave S, Rm 334
Tacoma, WA 98402-2108
bmcinva@piercecountywa.gov

3. Purpose of Proposed Rule Amendment:

CrR 4.2 and GR 39

Forms:

CrR 4.2(g) Statement of Defendant Upon Plea of Guilty—Non-Sex
CrR 4.2(g) Statement of Defendant Upon Plea of Guilty—Sex
CR 08.0800 Petition re: Legal Financial Obligations
CR 08.0810 Order re: Legal Financial Obligations

Changes were made to the Felony plea form, CrR4.2, to comply with legislative changes related to HB 1169, Concerning Legal Financial Obligations. The changes to CR 08.0800 and CR 08.0810 Petition and Order re: Legal Financial Obligations forms, GR 39, were made to comply with legislative changes related to HB 1169, Concerning Legal Financial Obligations and House Bill 1412 (2022).

The plea form changes remove the \$500 fine for the victim compensation fund as a mandatory fee, change the language around restitu-

tion, and strikes the DNA fee from the forms. The changes are the same on both the sex and non-sex plea form.

The GR 39 changes add new remedies and instructions. The Pattern Forms Committee is requesting the court to approve two versions of the forms. One set has instructions for the form user and the other set does not. The two sets will allow users that do not need instructions or have limited funds for printing to choose a shorter set to print and file with the court.

4. Is Expedited Consideration Requested?

Yes, the forms included in this have been updated because of changes in law that are effective January 1, 2023, July 1, 2023 and July 23, 2023. Therefore, we request that CrR 4.2 and GR 39 be effective upon publication.

5. Is a Public Hearing Recommended?

No. The substantive legal changes are required by statute.

Attachments:

- CrR 4.2(g) Non-Sex Offense_redline
- CrR 4.2(g) Non-Sex Offense_clean
- CrR 4.2(g) Sex Offense_redline
- CrR 4.2(g) Sex Offense_clean
- GR 39 Petition (Instructions)_redline
- GR 39 Petition (Instructions)_clean
- GR 39 Petition_clean
- GR 39 Order (Instructions)_redline
- GR 39 Order (Instructions)_clean
- GR 39 Order_clean

_____ Court of Washington, County/City of _____

| | |
|---|---|
| _____, Plaintiff. vs. _____, Defendant. DOB: | No. _____ Petition re: Legal Financial Obligations (PT) |
|---|---|

Use this form to ask the Court to waive or reduce the amount you owe, or to remove your Legal Financial Obligations (LFOs) from collections. Please fill out any sections that might apply to your case. After you fill out this form, you should also fill out a proposed order for the judge to sign. That form is called "Order re: Legal Financial Obligations." You must fill out a separate copy of both forms for each case you have.

Petition re: Legal Financial Obligation

The undersigned requests that the sentencing court grant an order that will ~~(check all boxes that apply):~~

1. Jurisdiction

If it has been more than 10 years since you were convicted in this case or completed the jail/prison term imposed at your sentencing, the court may be required to cancel some or all of your LFOs. By completing this section, you are asking the court to review whether it is required to cancel any of your LFOs.

You should check the first box if it has been more than 10 years since you completed the jail/prison term imposed at your sentencing. If you were sent back to jail or prison for violating probation or community custody, this does not restart the 10 year period. If you have spent time in jail or prison in the past 10 years, but it was not related to this conviction, you can still check the first box.

You should check the second box if you were not sentenced to jail or prison time in this case. If you have spent time in jail or prison in the past 10 years, but it was not related to this conviction, you can still check the second box.

You should check the third box if it has been fewer than 10 years since you completed the jail/prison term imposed at your sentencing.

If you were convicted of Rape of a Child, which resulted in pregnancy, your case has special rules and you should contact an attorney.

I declare, to the best of my knowledge, that more than 10 years have passed since I completed the jail or prison sentence (total confinement) imposed in this case. I ask the court to review whether it has jurisdiction to collect remaining LFOs, restitution, and interest. (RCW 3.66.120; RCW 6.17.020(4); 9.94A.760(5); RCW 9.94A.753(4); 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008)).

I declare, to the best of my knowledge, that I did not receive a jail or prison sentence (total confinement) in this case. I ask the court to review whether it has jurisdiction to collect remaining LFOs, restitution, and interest. (RCW 3.66.120; RCW 6.17.020(4); 9.94A.760(5); RCW 9.94A.753(4); 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008)).

I declare, to the best of my knowledge, that fewer than 10 years have passed since I completed the jail or prison sentence (total confinement) imposed in this case. I ask the court to review whether it has jurisdiction to collect remaining LFOs, restitution, and interest. (RCW 3.66.120; RCW 6.17.020(4); 9.94A.760(5); RCW 9.94A.753(4); 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008)).

2. Reduce or Waive LFOs

A. LFO Relief Available Regardless of Ability to Pay *(Check all that apply)*

Anyone filling out this form may ask for relief in Part A.

Collection. I request that the court remove my unpaid LFOs from collection and waive all collection fees. RCW 19.16.500 (1)(b); RCW 36.18.190; GR 39.

LFO Interest. I request that the court waive all unpaid interest on my LFOs that are not restitution. RCW 10.82.090 (3)(a)).

DNA Fee. I request that the court waive the DNA fee. RCW 43.43.7541(2).

Restitution Interest After Payment of Original Amount Owed (Principal Balance). I have paid the original amount owed (principal balance) of my restitution in full. All that remains of my restitution obligation is the added (accrued) interest. I ask that the court waive or reduce the remaining interest on my restitution. (RCW 10.82.090 (3)(b))

B. LFO Relief Due to Inability to Pay (Indigency)

You can complete this section regardless of whether you completed Part A. However, you may only ask for relief in this section if you are unable to pay. If you don't know whether you are considered unable to pay, you can review the criteria, below, in Section ii (Declaration of Inability to Pay (Indigency)). If you check one of the boxes in that section, you are considered unable to pay.

Remission Waiver or Reduction of LFOs. I request that all unpaid optional (discretionary) LFOs be waived or reduced. ~~Waive or reduce all unpaid discretionary LFOs~~ RCW 7.68.035(5); RCW 9.94A.6333 (3)(f); RCW 10.01.160(4) (limited to costs); RCW 10.01.180(5).

Restitution Owed To An Insurer or State Agency. I request that the court waive or reduce restitution and added (accrued) interest owed to an insurer or a state agency (other than the Department of Labor and Industries). RCW 3.66.120, RCW 9.94A.750, .753, RCW 9.92.060, 760, RCW 9.95.210.

Restitution Interest After Release from Total Confinement. I declare that I have been released from jail or prison (total confinement). I ask that restitution interest that accrued during my confinement be reduced or waived. (RCW 10.82.090)

Date I entered jail or prison in this case: _____

Date I was released from jail or prison in this case: _____

3. Declaration of Inability to Pay (Indigency)

You should complete this section if you completed the previous section—"(i) Waive or Reduce LFOs Due to Inability to Pay (Indigency)". You only need to meet one of the following criteria to be considered unable to pay. However, in order to give a full picture of your inability to pay to the court, please check all boxes that apply to your life.

I declare that I have not had enough money to pay all my LFOs and, because of this, my failure to pay them has not been willful. I declare that I am indigent (do not have the ability to pay) because:

~~I am the defendant in the above action and declare that I have been released from total confinement on this matter: (Check all that apply)~~

~~I have paid my restitution in full.~~

~~I am indigent because:~~

~~I am receiving one of the following types of public assistance (RCW 10.01.160 (3) (a)):~~

~~Food stamps or food stamp benefits transferred electronically (EBT);~~

~~Medicaid (for example, Apple Health);~~

~~Supplemental Security Income (SSI);~~

~~Temporary Assistance for Needy Families (TANF);~~

~~Aged, Blind, or Disabled assistance benefits (ABD);~~

~~Pregnant women assistance benefits;~~

~~Poverty-related veterans' benefits;~~

~~Refugee resettlement benefits; or~~

~~Medical care services under RCW 74.09.035;~~

~~I am homeless. (RCW 10.01.160 (3) (b)).~~

~~I am involuntarily committed to a public mental health facility. (RCW 10.101.010 (3) (b).)~~

I have an acute, chronic, or serious mental illness. (RCW 10.01.160 (3) (b)).

I am receiving an annual income, after taxes, of 125% or less of the current federally established poverty level. (RCW 10.01.160 (3) (a)). You can find the income limits (federally established poverty level) at <https://aspe.hhs.gov/topics/poverty-economicmobility/poverty-guidelines>; 125% of the federal poverty level can be found here: <https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=82>.

I am receiving an annual income, after taxes, of more than 125% of the federally established poverty level but I have living expenses making me unable to pay the LFOs imposed. (RCW 10.01.160 (3) (c)). You can find the income limits (federally established poverty level) at <https://aspe.hhs.gov/topics/poverty-economicmobility/poverty-guidelines>.

Details: _____

Other compelling circumstances exist that explain my inability to pay my LFOs. (RCW 10.01.160 (3) (d); RCW 13.40.192). Details:

I am not able to complete community restitution hours because:

I have not paid my LFOs in a timely manner. However, my late payment(s) or failure to pay was/were not willful because:

3. Process for Paying Any LFOs That Will Remain

You should fill out this section if you might have LFOs remaining even if the court offers you the relief you have asked for in this petition. For example, if you owe restitution or a mandatory LFO you may have LFOs remaining after the court rules on your motion. If you aren't sure if you will have LFOs remaining, please fill out this section.

You should check the box requesting additional time if you don't believe you could immediately pay whatever LFOs that remain in a single payment. When filling out this section, you can list any amount that you can afford to pay each month.

If your only source of income is from Social Security (retirement, disability, etc.), child support payments, or Department of Veterans Affairs (VA) payments, you are not required to pay any remaining LFOs. In this situation, you will continue to owe your LFOs, but the Court will not require you to make payments or send your account to collections. In the future, if you obtain income from another source, you will be required to pay your remaining LFOs. If your only source of income is from Social Security, child support, or VA payments, you should not check the box below titled "Additional Time and Payment Plan."

Additional Time and Payment Plan. I request additional time to pay any remaining LFOs and that I be placed on a payment plan I can afford directly through the Clerk. I can afford to pay \$ _____ per month. RCW 9.94A.6333 (3) (f); RCW 10.01.170(1); RCW 10.01.180(5).

Protected Source of Income. I do not have the ability to pay and request that the court not engage in any active efforts to collect any remaining LFOs. City of Richland v. Wakefield, 186 Wn.2d 596, 607, 380 P.3d 459, 465, (2016). My only income is:

- Social Security benefits (retirement, disability, etc.);
- Child support payments; or
- Benefits from the Department of Veterans Affairs

4. Other Relief

Please fill out this section if you would like to request any other relief not included above.

[] In addition to the relief requested above, I request that the court:

5. Hearing

You can ask the court to hold a hearing with you present or to decide this motion without a hearing. Please select either box A or box B, but not both. If you check box B, please check which type of hearing you would be able to attend.

[] **A. No Hearing.** I request that the court rule on my petition without a hearing.

[] **B. Hearing.** I ask that the court hold a hearing on my petition. I request to appear at the hearing:

[] Via video conference or telephone; or

[] In-person.

[] **OPTIONAL:** I have attached my financial case history report from the court clerk.

I request:

[] the court rule without a hearing.

[] a hearing by [] telephone [] video conference [] in court appearance.

6. Declaration of Service

You must deliver a copy of this form and the form titled, "Order re: Legal Financial Obligations" to the prosecutor. If your case is in Superior or District Court, the prosecutor will be the county prosecuting attorney's office (for example, Pierce County Prosecuting Attorney's Office). If your case is in municipal court, the prosecutor will be the city attorney's office (for example, Tacoma City Attorney's Office).

You should contact the prosecutor or city attorney's office, explain that you are filing a motion to reduce your legal financial obligations, and ask them how to send them ("serve") the forms. After you send them the forms, you can complete this section. Next, you should then call the court and ask them how to file your forms with the court. You should then file your forms with the court.

I mailed or delivered this Petition and a Proposed Order to the Prosecuting Attorney on (date) _____.

I mailed or delivered this Petition, Declaration and proposed Order to the Court on (date) _____ and to the Prosecuting Attorney on (date) _____.

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at (City) _____, (State) _____ on (Date) _____

Signature of Defendant

Print Name

The following is my contact information:

Email: _____ Phone: _____

Street Address or PO Box City State Zip

Lawyer (if any) fills out below:

Lawyer signs here Print name and WSBA No. Date

Lawyer's Street Address or PO Box _____ City _____ State _____ Zip _____
 Email (if applicable): _____

_____ Court of Washington, County/City of _____

| | |
|--|---|
| County/City of, vs. _____, Defendant. DOB: _____ | No. Order re: Legal Financial Obligations (ORWILFO) Clerk Action Required |
|--|---|

You should fill out this document after you fill out the "Petition re: Legal Financial Obligations." This document will tell the judge exactly what you are asking them to do. There are instructions in each section of the form. Please fill out any sections that apply to what you're asking the court to do by checking the boxes next to those sections. This should mostly match what you're asking for in your petition.

Order re: Legal Financial Obligations

This Court has considered the defendant's Motion for Order re: Legal Financial Obligations (LFOs), the defendant's declaration, and any testimony, and has reviewed the relevant court records.

~~The Court finds:~~

~~The defendant has been released from total confinement in this matter.~~

~~The defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs. RCW 10.82.090 (2) (b).~~

~~The defendant is indigent. RCW 10.101.010(3); RCW 9.94A.6333 (3) (c); RCW 10.01.180(5); GR 34 (a) (3); State v. Blazina, 182 Wn.2d 827, 839, 344 P.2d 827 (2015) (instructing courts to look to GR 34 for guidance concerning ability to pay).~~

~~The defendant is homeless. RCW 9.94A.6333 (3) (d); RCW 9.94A.760(11); RCW 10.01.180 (1) (c).~~

~~The defendant's failure to timely pay LFOs was not willful. RCW 9.94A.6333 (3) (e); RCW 10.01.180(5).~~

~~The defendant has has not requested the opportunity for community restitution.~~

~~Other:~~

1. Jurisdiction

The Court finds:

You should only fill out this section if it has been more than 10 years since you were convicted in this case. If it has been more than 10 years since your conviction, you should check the box on the bottom of the next page.

You should also check the box at the top of page three if it has been more than 10 years since you completed the jail/prison term imposed at your sentencing you were not sentenced to jail or prison time in this case. You can check this box even though you likely don't know whether the court extended the judgment in your case.

If you were convicted of Rape of a Child, which resulted in pregnancy, your case has special rules and you should contact an attorney. You should refer to the instruction packet for more information.

Time Since Conviction: Ten years have passed since the defendant was convicted in this case (entry of the judgment and sentence). RCW 3.66.120(3); RCW 6.17.020(1); RCW 6.17.020(4); RCW 9.94A.750(4); RCW 9.94A.753(4); RCW 9.94A.760(5); State v. Gossage, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

Time Since Release from Jail/Prison or Extension of the Judgment: Ten years have elapsed since the defendant was released from total confinement or extension of the criminal judgment, whichever is later. RCW 3.66.120(3); RCW 6.17.020(4); RCW 9.94A.750(4); RCW 9.94A.753(4); RCW 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

The Court orders:

If you checked either of the boxes above, you should check the two boxes below. It is possible the court may still be allowed to collect LFOs or restitution. If that is the case, the judge will uncheck the boxes below before signing the order.

Expiration of LFO Jurisdiction: The Court is no longer authorized to collect all LFOs and LFO interest. The court may continue to collect any restitution and restitution interest, unless the box, "Expiration of Restitution Jurisdiction," is checked below. RCW 6.17.020(1); RCW 6.17.020(4); RCW 9.94A.753(4); RCW 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

Expiration of Restitution Jurisdiction: The Court is no longer authorized to collect restitution and restitution interest. RCW 3.66.120(3); RCW 6.17.020(4)(a); RCW 9.94A.753(4); RCW 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

2. Reduce or Waive LFOs

A. LFO Relief Available Regardless of Ability to Pay

The Court finds:

You should check the box below if you have paid off your restitution principal (the original restitution amount imposed by the court) and all that remains of your restitution obligation is interest.

Restitution Interest After Payment of Principal. The defendant has paid restitution in full. RCW 10.82.090(3)(b).

The Court orders:

You can check multiple boxes in this section.

You should check the first box if you would like your LFOs removed from collections and any collections fees to be waived.

You should check the second box if you would like all interest, except restitution interest, to be waived. The court is required to waive non-restitution interest if you make this request. This will not affect whether you can request restitution interest waiver in other sections of the form.

You should check the third box if you were convicted in Superior Court and would like the court to waive the DNA fee. The court is required to waive the DNA fee if you make this request.

You should check the fourth box if you have paid off your original restitution amount (restitution principal) ordered by the court and would like your restitution interest waived.

Collection. The defendant's LFOs are removed from collections and all collection fees are waived. RCW 19.16.500(1)(b); RCW 36.18.190.

~~**Collection.** The remaining LFOs are removed from a third-party collection agency and payments shall now be made to the Clerk's Office. RCW 36.18.190.~~

LFO Interest. All unpaid interest, except restitution interest, is waived. RCW 10.82.090(3)(a).

DNA Fee. The DNA fee is waived. RCW 43.43.7541(2).

Restitution Interest Waiver After Payment of Principal. Because the defendant has paid restitution principal in full, all restitution interest is waived. RCW 10.82.090(3)(b).

Restitution Interest Waiver. Because the defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs, all restitution interest is waived. RCW 10.82.090(2)(b).

B. LFO Relief Due to Inability to Pay

The Court finds:

You can check multiple boxes in this section.

You should only fill out this section if you are unable to pay your LFOs. You are unable to pay your LFOs if, in the Petition, you checked any of the boxes in the section titled "Declaration of Inability to Pay (Indigency)." If you are unable to pay your LFOs, you should check the first box, below.

You should also check the second box in this section if you are unable to pay your LFOs and are also seeking waiver of restitution interest that accrued while you were in jail or prison.

Inability to Pay. The defendant is indigent and payment of LFOs will impose a manifest hardship on the defendant or their family. The defendant's failure to timely pay LFOs was not willful. RCW 7.68.035(5); RCW 10.01.160(3); RCW 10.01.185; RCW 9.94A.6333 (3)(c); RCW 10.01.180(5).

Release from Total Confinement. The defendant was released from total confinement in this matter.

Notice to party entitled to restitution. The prosecuting attorney made reasonable efforts provide notice of the date and time of the hearing to the victim entitled to the restitution interest and considered the victim's input regarding financial hardship caused to the victim if interest is reduced or waived, if any.

The Court orders:

You can check multiple boxes in this section.

You should check the first box if you are requesting waiver of your LFOs. You do not need to list which required (mandatory) LFOs (if any) will remain. The judge will fill in that information.

You should check the second box if you owe restitution to an insurer or state agency (other than the Department of Labor & Industries) and would like it to be waived. This would eliminate all remaining restitution (the initial amount imposed and interest) in your case.

You should check the third box if you would like restitution interest that was added to the original amount ordered (accrued) while you were in jail or prison to be waived.

Remission. All discretionary LFOs that are not restitution, including all costs or fees attendant to private debt collection efforts, are waived. RCW 9.94A.6333 (3)(f); RCW 10.01.160 (3), (4) (relating to costs); RCW 10.01.180(5); RCW 46.63.190; RCW 36.18.190. The following mandatory LFOs shall remain:

Waiver of LFOs. Because the defendant is unable to pay, all discretionary LFOs, except restitution, are waived. RCW 7.68.035(5); RCW 9.94A.6333 (3)(f); RCW 10.01.160 (3), (4) (relating to costs); RCW 10.01.180(5); RCW 36.18.190. The following LFO's are **NOT** waived:

⋮

Waiver of Restitution Owed to an Insurer or State Agency or Insurer. Because the defendant is unable to pay and owes restitution to an insurer or state agency (other than the Department of Labor & Industries), the restitution owed is waived. RCW 3.66.120; RCW 9.94A.750, .753; RCW 9.92.060, 760; RCW 9.95.210.

Waiver of Restitution Interest During Total Confinement. Because the defendant has been released from total confinement and is unable to pay, all restitution interest accrued during the defendant's period of confinement is waived. RCW 10.82.090(3).

3. Process for Paying Any LFOs That Will Remain

You should fill out this section if you filled out Section 3 in the Petition (also titled "Process for Paying Any LFOs That Will Remain").

The Court finds:

Instructions: You should fill out this section if your only source of income is Social Security benefits, child support payments, or benefits from the Department of Veterans Affairs. Please indicate which type of benefits you receive.

Protected Source of Income. The defendant's only source of income is:

Social Security benefits (retirement, disability, etc.); 42 U.S.C.A. § 407

Child support payments; or RCW 6.15.010

Benefits from the Department of Veterans Affairs 38 U.S.C.A. § 1562

The Court orders:

You should check the first box, below, if you requested additional time to pay your LFOs in Section 3 of the Petition. Please fill in the monthly payment amount you included in your petition.

You should check the second box if your only source of income is from Social Security (retirement, disability, etc.), child support payments, or Department of Veterans Affairs payments. In this situation, you will continue to owe your LFOs, but the Court will not require you to make payments or send your account to collections. In the future, if you receive income from another source, you will be required to pay your remaining LFOs.

Instructions for Judges: If a defendant's only source of income is from Social Security, child support, or the Department of Veterans Affairs, federal law and caselaw prohibit the Clerk from taking any active efforts to collect that money. City of Richland v. Wakefield, 186 Wn.2d 596, 607, 380 P.3d 459, 465 (2016).

Additional Time and Payment Plan. The defendant shall be placed on a payment plan through the Clerk for all remaining LFOs. Payments shall be made directly to the Clerk. The defendant shall pay \$_____ per month. RCW 9.94A.6333 (3)(f); RCW 10.01.170(1); RCW 10.01.180(5).

Protected Source of Income. Because the defendant's only source of income is from a protected source, the Clerk shall not engage in any active efforts to collect any remaining LFOs. The Defendant shall not be required to make any LFO payments, the Clerk shall not mail the Defendant any LFO billing materials, and the Defendant's account shall not be sent to collections. *City of Richland v. Wakefield, 186 Wn.2d 596, 607, 380 P.3d 459, 465, (2016).*

Reduction. RCW 9.94A.6333 (3)(f); RCW 10.01.180(5). All discretionary LFOs that are not restitution are reduced as follows:

Community Restitution. All discretionary LFOs that are not restitution are converted to community restitution hours through a community restitution program at the rate of \$_____ per hour for each hour of community restitution. RCW 9.94A.6333 (3)(f); RCW 10.01.180(5); RCW 46.63.190.

~~Additional Time.~~ RCW 9.94A.6333 (3)(f); RCW 10.01.180(5); RCW 10.82.090 (2)(b); RCW 10.01.170; RCW 46.63.190. All remaining LFOs may be paid according to the following schedule:

Next payment due date: _____
Minimum monthly payment: _____
Payments shall be made to: _____

4. Other Relief

If you asked for other relief in Section 4 of the Petition, please include the relief you asked for below.

The Court orders:

To be filled out by Judge:

Dated: _____ Judge _____

To be filled out by person filling out this form:
Presented by: _____

Signature of Defendant/Attorney WSBA No.

Print Name

Petition re: Legal Financial Obligation Instructions

Use the petition to ask the Court to waive or reduce the amount you owe, or to remove your Legal Financial Obligations (LFOs) from collections. Please fill out any sections that might apply to your case. After you fill out the petition, you should also fill out a proposed order for the judge to sign. That form is called "Order re: Legal Financial Obligations" and instructions for completing that document follow the petition instructions in this document. You must fill out a separate copy of the petition and order for each case you have.

Each section, below, includes instructions for filling out the matching section in the petition.

1. Jurisdiction

Instructions: If it has been more than 10 years since you were convicted in this case or completed the jail/prison term imposed at your sentencing, the court may be required to cancel some or all of your LFOs. By completing this section, you are asking the court to review whether it is required to cancel any of your LFOs.

You should check the first box in this section if it has been more than 10 years since you completed the jail/prison term imposed at your sentencing. If you were sent back to jail or prison for violating probation or community custody, this does not restart the 10 year period. If you have spent time in jail or prison in the past 10 years, but it was not related to this conviction, you can still check the first box.

You should check the second box in this section if you were not sentenced to jail or prison time in this case. If you have spent time in jail or prison in the past 10 years, but it was not related to this conviction, you can still check the second box.

You should check the third box in this section if it has been fewer than 10 years since you completed the jail/prison term imposed at your sentencing.

If you were convicted of Rape of a Child, which resulted in pregnancy, your case has special rules and you should contact an attorney.

2. Reduce or Waive LFOs

A. LFO Relief Available Regardless of Ability to Pay

Instructions: Anyone filling out this form may ask for relief in Part A.

B. LFO Relief Due to Inability to Pay (Indigency)

i. Inability to Pay

Instructions: You can complete this section regardless of whether you completed Part A. However, you may only ask for relief in this section if you are unable to pay. If you don't know whether you are considered unable to pay, you can review the criteria in Section ii of the Petition (Declaration of Inability to Pay (Indigency)). If you check one of the boxes in that section, you are considered unable to pay.

ii. Declaration

Instructions: You should complete this section if you completed the previous section—" (i) Waive or Reduce LFOs Due to Inability to Pay (Indigency)". You only need to meet one of the listed criteria to be considered unable to pay. However, in order to give a full picture of your inability to pay to the court, please check all boxes that apply to your life.

3. Process for Paying Any LFOs That Will Remain

Instructions: You should fill out this section if you might have LFOs remaining even if the court offers you the relief you have asked for in this petition. For example, if you owe restitution or a mandatory LFO (Victim Penalty Assessment, DNA Fee, etc.) you may have LFOs remaining after the court rules on your motion. If you aren't sure if you will have LFOs remaining, please fill out this section.

You should check the box requesting additional time if you don't believe you could immediately pay whatever LFOs that remain in a single payment. When filling out this section, you can list any amount that you can afford to pay each month.

If your only source of income is from Social Security (retirement, disability, etc.), child support payments, or Department of Veterans Affairs (VA) payments, you are not required to pay any remaining LFOs. In this situation, you will continue to owe your LFOs, but the Court will not require you to make payments or send your account to collections. In the future, if you obtain income from another source, you will be required to pay your remaining LFOs. If your only source of income is from Social Security, child support, or VA payments, you should not check the box in this section titled "Additional Time and Payment Plan."

4. Other Relief

Instructions: Please fill out this section if you would like to request any other relief not included in other sections of the petition.

5. Hearing

Instructions: You can ask the court to hold a hearing with you present or to decide this motion without a hearing. Please select either box A or box B, but not both. If you check box B, please check which type of hearing you would be able to attend.

6. Declaration of Service

Instructions: You must deliver a copy of the petition and the form titled, "Order re: Legal Financial Obligations" to the prosecutor. If your case is in Superior or District Court, the prosecutor

will be the county prosecuting attorney's office (for example, Pierce County Prosecuting Attorney's Office). If your case is in municipal court, the prosecutor will be the city attorney's office (for example, Tacoma City Attorney's Office).

You should contact the prosecutor or city attorney's office, explain that you are filing a motion to reduce your legal financial obligations, and ask them how to send them ("serve") the forms. After you send them the forms, you can complete this section. Next, you should then call the court and ask them how to file your forms with the court. You should then file your forms with the court.

Order re: Legal Financial Obligation Instructions

You should fill out the order after you fill out the "Petition re: Legal Financial Obligations." The order will tell the judge exactly what you are asking them to do. Please fill out all sections that apply to what you're asking the court to do by checking the boxes next to those sections. This should mostly match what you're asking for in your petition.

Each section, below, includes instructions for filling out the matching section in the order.

1. Jurisdiction

The Court finds:

Instructions: You should only fill out this section if it has been more than 10 years since you were convicted in this case. If it has been more than 10 years since your conviction, you should check the box titled "Time Since Conviction."

You should also check the box titled "Time Since Release from Jail/Prison or Extension of the Judgment" if it has been more than 10 years since you completed the jail/prison term imposed at your sentencing you were not sentenced to jail or prison time in this case. You can check this box even though you likely don't know whether the court extended the judgment in your case.

If you were convicted of Rape of a Child, which resulted in pregnancy, your case has special rules and you should contact an attorney.

The Court orders:

If you checked either of the boxes in this previous section ("Time Since Conviction" or "Time Since Release from Jail/Prison or Extension of the Judgment"), you should check the two boxes in this section. It is possible the court may still be allowed to collect LFOs or restitution. If that is the case, the judge will uncheck the boxes in this section before signing the order.

2. Reduce or Waive LFOs

A. LFO Relief Available Regardless of Ability to Pay

The Court finds:

Instructions: You should check the box in this section if you have paid off your restitution principal (the original restitution amount imposed by the court) and all that remains of your restitution obligation is interest.

The Court orders:

Instructions: You can check multiple boxes in this section.

You should check the first box if you would like your LFOs removed from collections and any collections fees to be waived.

You should check the second box if you would like all interest, except restitution interest, to be waived. The court is required to waive non-restitution interest if you make this request. This will not affect whether you can request restitution interest waiver in other sections of the form.

You should check the third box if you were convicted in Superior Court and would like the court to waive the DNA fee. The court is required to waive the DNA fee if you make this request.

You should check the fourth box if you have paid off your original restitution amount (restitution principal) ordered by the court and would like your restitution interest waived.

B. LFO Relief Due to Inability to Pay

The Court finds:

Instructions: You can check multiple boxes in this section.

You should only fill out this section if you are unable to pay your LFOs. You are unable to pay your LFOs if, in the Petition, you checked any of the boxes in the section titled "Declaration of Inability to Pay (Indigency)." If you are unable to pay your LFOs, you should check the first box in this section.

You should also check the second box in this section if you are unable to pay your LFOs and are also seeking waiver of restitution interest that accrued while you were in jail or prison.

The Court orders:

Instructions: You can check multiple boxes in this section.

You should check the first box in this section if you are requesting waiver of your LFOs. You do not need to list which required (mandatory) LFOs (if any) will remain. The judge will fill in that information.

You should check the second box in this section if you owe restitution to an insurer or state agency (other than the Department of Labor & Industries) and would like it to be waived. This would eliminate all remaining restitution (the initial amount imposed and interest) in your case.

You should check the third box in this section if you would like restitution interest that was added to the original amount ordered (accrued) while you were in jail or prison to be waived.

3. Process for Paying Any LFOs That Will Remain

Instructions: You should fill out this section if you filled out Section 3 in the Petition (also titled "Process for Paying Any LFOs That Will Remain").

The Court finds:

Instructions: You should fill out this section if your only source of income is Social Security benefits, child support payments, or benefits from the Department of Veterans Affairs. Please indicate which type of benefits you receive.

The Court orders:

Instructions: You should check the first box in this section if you requested additional time to pay your LFOs in Section 3 of the Petition. Please fill in the monthly payment amount you included in your petition.

You should check the second box in this section if your only source of income is from Social Security (retirement, disability, etc.), child support payments, or Department of Veterans Affairs payments. In this situation, you will continue to owe your LFOs, but the Court will not require you to make payments or send your account to collections. In the future, if you receive income from another source, you will be required to pay your remaining LFOs.

4. Other Relief

Instructions: If you asked for other relief in Section 4 of the Petition, please include the relief you asked for in this section.

_____ Court of Washington, County/City of _____

Labor and Industries). RCW 3.66.120, RCW 9.94A.750, .753, RCW 9.92.060, 760, RCW 9.95.210.

Restitution Interest After Release from Total Confinement. I declare that I have been released from jail or prison (total confinement). I ask that restitution interest that accrued during my confinement be reduced or waived. (RCW 10.82.090)

Date I entered jail or prison in this case: _____

Date I was released from jail or prison in this case: _____

3. Declaration of Inability to Pay (Indigency)

I declare that I have not had enough money to pay all my LFOs and, because of this, my failure to pay them has not been willful. I declare that I am indigent (do not have the ability to pay) because:

I am the defendant in the above action and declare that I have been released from total confinement on this matter: (Check all that apply)

I have paid my restitution in full.

I am indigent because:

I am receiving one of the following types of public assistance (RCW 10.01.160 (3) (a)):

Food stamps or food stamp benefits transferred electronically (EBT);

Medicaid (for example, Apple Health);

Supplemental Security Income (SSI);

Temporary Assistance for Needy Families (TANF);

Aged, Blind, or Disabled assistance benefits (ABD);

Pregnant women assistance benefits;

Poverty-related veterans' benefits;

Refugee resettlement benefits; or

Medical care services under RCW 74.09.035;

I am homeless. (RCW 10.01.160 (3) (b)).

I am involuntarily committed to a public mental health facility. (RCW 10.101.010 (3) (b).)

I have an acute, chronic, or serious mental illness. (RCW 10.01.160 (3) (b)).

I am receiving an annual income, after taxes, of 125% or less of the current federally established poverty level. (RCW 10.01.160 (3) (a)). You can find the income limits (federally established poverty level) at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>; 125% of the federal poverty level can be found here: <https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=82>.

I am receiving an annual income, after taxes, of more than 125% of the federally established poverty level but I have living expenses making me unable to pay the LFOs imposed. (RCW 10.01.160 (3) (c)). You can find the income limits (federally established poverty level) at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

Details: _____

Other compelling circumstances exist that explain my inability to pay my LFOs. (RCW 10.01.160 (3) (d); RCW 13.40.192). Details:

~~[] I am not able to complete community restitution hours because:~~

~~[] I have not paid my LFOs in a timely manner. However, my late payment(s) or failure to pay was/were not willful because:~~

3. Process for Paying Any LFOs That Will Remain

~~[] **Additional Time and Payment Plan.** I request additional time to pay any remaining LFOs and that I be placed on a payment plan I can afford directly through the Clerk. I can afford to pay \$ _____ per month. RCW 9.94A.6333 (3) (f); RCW 10.01.170(1); RCW 10.01.180(5).~~

~~[] **Protected Source of Income.** I do not have the ability to pay and request that the court not engage in any active efforts to collect any remaining LFOs. *City of Richland v. Wakefield*, 186 Wn.2d 596, 607, 380 P.3d 459, 465, (2016). My only income is:~~

~~[] Social Security benefits (retirement, disability, etc.);~~

~~[] Child support payments; or~~

~~[] Benefits from the Department of Veterans Affairs~~

4. Other Relief

~~[] In addition to the relief requested above, I request that the court:~~

5. Hearing

~~[] **A. No Hearing.** I request that the court rule on my petition without a hearing.~~

~~[] **B. Hearing.** I ask that the court hold a hearing on my petition. I request to appear at the hearing:~~

~~[] Via video conference or telephone; or~~

~~[] In-person.~~

~~[] **OPTIONAL:** I have attached my financial case history report from the court clerk.~~

~~I request:~~

~~[] the court rule without a hearing.~~

~~[] a hearing by [] telephone [] video conference [] in court appearance.~~

6. Declaration of Service

~~I mailed or delivered this Petition and a Proposed Order to the Prosecuting Attorney on (date) _____.~~

~~I mailed or delivered this Petition, Declaration and proposed Order to the Court on (date) _____ and to the Prosecuting Attorney on (date) _____.~~

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at (City) _____, (State) _____ on (Date) _____

Signature of Defendant

Print Name

The following is my contact information:

Email: _____ Phone: _____

Street Address or PO Box City State Zip

Lawyer (if any) fills out below:

Lawyer signs here Print name and WSBA No. Date

Lawyer's Street Address or PO Box City State Zip

Email (if applicable): _____

_____ Court of Washington, County/City of _____

| | |
|---|--|
| County/City of, vs. _____, Defendant. DOB: _____ | No. Order re: Legal Financial Obligations (ORWILFO) Clerk Action Required |
|---|--|

Order re: Legal Financial Obligations

This Court has considered the defendant's Motion for Order re: Legal Financial Obligations (LFOs), the defendant's declaration, and any testimony, and has reviewed the relevant court records.

The Court finds:

The defendant has been released from total confinement in this matter.

The defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs. RCW 10.82.090 (2) (b).

The defendant is indigent. RCW 10.101.010(3); RCW 9.94A.6333 (3) (c); RCW 10.01.180(5); GR 34 (a) (3); *State v. Blazina*, 182 Wn.2d 827, 839, 344 P.2d 827 (2015) (instructing courts to look to GR 34 for guidance concerning ability to pay).

The defendant is homeless. RCW 9.94A.6333 (3) (d); RCW 9.94A.760(11); RCW 10.01.180 (1) (c).

The defendant's failure to timely pay LFOs was not willful. RCW 9.94A.6333 (3) (e); RCW 10.01.180(5).

The defendant has has not requested the opportunity for community restitution.

Other:

1. Jurisdiction

The Court finds:

Time Since Conviction: Ten years have passed since the defendant was convicted in this case (entry of the judgment and sentence). RCW 3.66.120(3); RCW 6.17.020(1); RCW 6.17.020(4); RCW 9.94A.750(4); RCW 9.94A.753(4); RCW 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

Time Since Release from Jail/Prison or Extension of the Judgment: Ten years have elapsed since the defendant was released from total confinement or extension of the criminal judgment, whichever is later. RCW 3.66.120(3); RCW 6.17.020(4); RCW 9.94A.750(4); RCW 9.94A.753(4); RCW 9.94A.760(5); *State v. Gossage*, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

The Court orders:

Expiration of LFO Jurisdiction: The Court is no longer authorized to collect all LFOs and LFO interest. The court may continue to collect any restitution and restitution interest, unless the box, "Expiration of Restitution Jurisdiction," is checked below. RCW

6.17.020(1); RCW 6.17.020(4); RCW 9.94A.753(4); RCW 9.94A.760(5); State v. Gossage, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

[] Expiration of Restitution Jurisdiction: The Court is no longer authorized to collect restitution and restitution interest. RCW 3.66.120(3); RCW 6.17.020 (4) (a); RCW 9.94A.753(4); RCW 9.94A.760(5); State v. Gossage, 165 Wn.2d 1, 8, 195 P.3d 525, 528 (2008).

2. Reduce or Waive LFOs

A. LFO Relief Available Regardless of Ability to Pay

The Court finds:

[] Restitution Interest After Payment of Principal. The defendant has paid restitution in full. RCW 10.82.090 (3) (b).

The Court orders:

[] Collection. The defendant's LFOs are removed from collections and all collection fees are waived. RCW 19.16.500 (1) (b); RCW 36.18.190.

~~[] Collection.~~ The remaining LFOs are removed from a third-party collection agency and payments shall now be made to the Clerk's Office. RCW 36.18.190.

[] LFO Interest. All unpaid interest, except restitution interest, is waived. RCW 10.82.090 (3) (a).

[] DNA Fee. The DNA fee is waived. RCW 43.43.7541(2).

[] Restitution Interest Waiver After Payment of Principal. Because the defendant has paid restitution principal in full, all restitution interest is waived. RCW 10.82.090 (3) (b).

~~[] Restitution Interest Waiver.~~ Because the defendant has paid restitution in full and reducing interest on restitution would be an incentive for the defendant to pay other LFOs, all restitution interest is waived. RCW 10.82.090 (2) (b).

B. LFO Relief Due to Inability to Pay

The Court finds:

[] Inability to Pay. The defendant is indigent and payment of LFOs will impose a manifest hardship on the defendant or their family. The defendant's failure to timely pay LFOs was not willful. RCW 7.68.035(5); RCW 10.01.160(3); RCW 10.01.185; RCW 9.94A.6333 (3) (c); RCW 10.01.180(5).

[] Release from Total Confinement. The defendant was released from total confinement in this matter.

[] Notice to party entitled to restitution. The prosecuting attorney made reasonable efforts provide notice of the date and time of the hearing to the victim entitled to the restitution interest and considered the victim's input regarding financial hardship caused to the victim if interest is reduced or waived, if any.

The Court orders:

~~[] Remission.~~ All discretionary LFOs that are not restitution, including all costs or fees attendant to private debt collection efforts, are waived. RCW 9.94A.6333 (3) (f); RCW 10.01.160 (3), (4) (relating to costs); RCW 10.01.180(5); RCW 46.63.190; RCW 36.18.190. The following mandatory LFOs shall remain:

[] Waiver of LFOs. Because the defendant is unable to pay, all discretionary LFOs, except restitution, are waived. RCW 7.68.035(5); RCW 9.94A.6333 (3) (f); RCW 10.01.160(3), (4) (relating to costs); RCW 10.01.180(5); RCW 36.18.190. The following LFO's are **not** waived:

[] Waiver of Restitution Owed to an Insurer or State Agency or Insurer. Because the defendant is unable to pay and owes restitution to an insurer or state agency (other than the Department of Labor &

Industries), the restitution owed is waived. RCW 3.66.120; RCW 9.94A.750, .753; RCW 9.92.060, 760; RCW 9.95.210.

Waiver of Restitution Interest During Total Confinement. Because the defendant has been released from total confinement and is unable to pay, all restitution interest accrued during the defendant's period of confinement is waived. RCW 10.82.090(3).

3. Process for Paying Any LFOs That Will Remain

The Court finds:

Protected Source of Income. The defendant's only source of income is:

Social Security benefits (retirement, disability, etc.); 42 U.S.C.A. § 407

Child support payments; or RCW 6.15.010

Benefits from the Department of Veterans Affairs 38 U.S.C.A. § 1562

The Court orders:

Additional Time and Payment Plan. The defendant shall be placed on a payment plan through the Clerk for all remaining LFOs. Payments shall be made directly to the Clerk. The defendant shall pay \$ _____ per month. RCW 9.94A.6333 (3)(f); RCW 10.01.170(1); RCW 10.01.180(5).

Protected Source of Income. Because the defendant's only source of income is from a protected source, the Clerk shall not engage in any active efforts to collect any remaining LFOs. The Defendant shall not be required to make any LFO payments, the Clerk shall not mail the Defendant any LFO billing materials, and the Defendant's account shall not be sent to collections. *City of Richland v. Wakefield*, 186 Wn.2d 596, 607, 380 P.3d 459, 465, (2016).

Reduction. RCW 9.94A.6333 (3)(f); RCW 10.01.180(5). All discretionary LFOs that are not restitution are reduced as follows:

Community Restitution. All discretionary LFOs that are not restitution are converted to community restitution hours through a community restitution program at the rate of \$ _____ per hour for each hour of community restitution. RCW 9.94A.6333 (3)(f); RCW 10.01.180(5); RCW 46.63.190.

Additional Time. RCW 9.94A.6333 (3)(f); RCW 10.01.180(5); RCW 10.82.090 (2)(b); RCW 10.01.170; RCW 46.63.190. All remaining LFOs may be paid according to the following schedule:

Next payment due date: _____
Minimum monthly payment: _____
Payments shall be made to: _____

4. Other Relief

The Court orders:

To be filled out by Judge:

Dated: _____

Judge

Presented by:

Signature of Defendant/Attorney WSBA No.

Print Name

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.