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**COURT OF APPEALS, DIVISION II  
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

CHRISTOPHER KYLE SIKES, APPELLANT

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Appeal from the Superior Court of Pierce County  
The Honorable Kathryn Nelson

No. 15-1-00571-7

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**Brief of Respondent**

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Did the trial court properly exercise its discretion in revoking defendant's SSOSA when the court explicitly found five violations of conditions of release and defendant failed to make satisfactory progress in treatment?
2. Is remand required to amend two conditions of community custody as imposed by the sentencing court?
3. Should defendant remain liable for the \$200 criminal filing when all matters related to his original conviction and sentence were concluded prior to the passage of House Bill 1783?

B. STATEMENT OF THE CASE.

1. PROCEDURE

On September 25, 2015, Christopher Kyle Sikes, hereinafter "defendant," pleaded guilty to two counts of rape of a child in the first degree. CP 11-22. For a nine-year period, defendant committed sex crimes against his two sisters beginning when they were five or six years old based

on their memories. RP 12.<sup>1</sup> Defendant admitted though that when his sisters were in their cribs, he would undo their diapers and fondle their vaginas. RP 30, 251. This indicates the sexual assaults began when the girls were still toddlers and/or infants and were in their cribs. *Id.* The State asked for the high end of the standard range sentence of 160 months to life. RP 16; CP 25-32. Defendant asked for a Special Sex Offender Sentencing Alternative (SSOSA). RP 17-18. The sentencing court ultimately sentenced defendant to a SSOSA, but warned, "I am willing to give [defendant] one chance. He'll be within my jurisdiction for any and all violations, and I will have no hesitancy whatsoever in revoking SSOSA for even minor deviations." RP 19; CP 86-103.

On October 4, 2017, the State filed a petition to revoke SSOSA based on six alleged violations. CP 150-164. Five of the alleged violations were from failing to abide by the conditions of the court and DOC. *Id.* The alleged violations were: (1) having contact with minors; (2) frequenting areas where minors congregate; (3) failing to remain within Pierce County; (4) Not informing his Community Corrections Officer (CCO) of any romantic relationships to verify there are no victim age children; and (5)

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<sup>1</sup> The verbatim reports of proceedings are contained in six volumes. Five volumes have consecutive pagination and are referred to by "RP #." The sixth volume is referenced by date.

purchasing alcohol. *Id.* The sixth violation was for failing to make satisfactory progress in treatment. *Id.*

During the revocation hearing the trial court heard from two witnesses for the State and one witness for defendant. CP 262. Defendant's counsel conceded that defendant was in violation when he was with a child and her mother in a car and was also in violation when he was in a car alone with the child. RP 254-255. The court revoked defendant's SSOSA. CP 231-253. All six violations were listed as grounds for revocation in the order. *Id.* Each of the violations on their own would have been sufficient by itself to revoke defendant's SSOSA. *Id.*

## 2. FACTS

Beginning in October 2016, defendant began his SSOSA treatment program with Daniel DeWaelche, a certified sex offender treatment provider. RP 51. As part of treatment, defendant had to sign a standard treatment contract for every sex offender whom goes through DeWaelche's program. *Id.* The contract had twenty conditions. *Id.* If an offender gets close to violating any condition, has questions about the contract, or has specific issues with a condition, those are reviewed with the offender on a weekly basis. RP 53. One of the conditions in the contract had to do with having a romantic relationship and the steps needed to pursue such and remain in compliance with treatment. RP 54. Similarly, a sex

offender cannot date someone with children living in the home if their conviction involved minor children. RP 56. Defendant's treatment program was weekly group treatment and he participated in two groups. RP 57.

During the course of treatment, DeWaelche learned how defendant was involved with a woman, Chev.<sup>2</sup> RP 57. Defendant described how he drove the woman to a casino where she liked to drink and gamble. *Id.* It turns out that defendant was the one providing her the money to do so. *Id.* Because this sounded like a usury situation, defendant was told to cease having contact with Chev. *Id.* He denied providing her money for sexual purposes and only thought about being with her sexually one time. RP 58.

Around October 25, 2017, it was discovered defendant was still in contact with Chev and providing her large sums of money. RP 58-59. After hearing this, DeWaelche talked to defendant's probation officer, Gail Delaney. RP 59. He learned from Delaney how defendant had touched the woman's breasts and had been in a vehicle with her child. *Id.* DeWaelche felt this put the child at risk of being sexually assaulted. *Id.* At no time did defendant tell him Chev had a child. RP 63. This created concerns about defendant's honesty in treatment. *Id.* Based upon all the information

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<sup>2</sup> At various times the woman in question is referred to as "Chev," "Chery," "Christine," or "Chert Vat." See Exh. 7; RP 152-155. Her surname is unknown. RP 153. To avoid confusion, she is referred to as "Chev" throughout the State's brief. No disrespect is intended.

DeWaelche knew, he formally terminated defendant from treatment. RP 57, 59; Exh. 1. Overall, DeWaelche believed defendant was a high risk to the community and was a risk to reoffend. RP 67-68.

As part of defendant's supervision with DOC, he was required to sign a separate standard document for all sex offenders being supervised outlining the conditions which he had to follow. RP 101. It is standard practice to go over all conditions on multiple occasions. *Id.* One of the DOC specific conditions was that defendant could not be in a romantic relationship without approval from his CCO. RP 106. Upon his release from prison in September 2016, defendant's CCO was Delaney. RP 102. Defendant needed to meet regularly with Delaney as part of his DOC supervision. RP 104. From Delaney, defendant was able to secure a travel pass to go to King County for work. RP 107. In June 2017, Delaney learned defendant was potentially involved with Chev. RP 109. Delaney made it clear he could not go anywhere where defendant could purchase alcohol, including casinos. RP 110. Defendant said going to a casino with Chev and buying her alcohol was a one-time thing. *Id.* However, defendant claimed there was no romantic relationship and she was simply a coworker to whom he gave rides. RP 111. Delaney made it clear how if there was a romantic relationship, Chev needed to come into the office to make sure there were no minors in the home. *Id.*

At some point, it came out that she had two minor children, a 17-18-year-old and a two-year-old. RP 111-113. At first, defendant only disclosed that Chev had the older child. *Id.* However, Delaney learned about the children from DeWaelsche, not defendant. The CCO made sure to remind defendant he needed to bring the woman into the office to discuss a potential romantic relationship. RP 113. Delaney told defendant this at least four times. RP 114. Defendant continued to deny being in a romantic relationship with her but disclosed he was a sex offender to her. RP 116.

In September, information came out regarding defendant having numerous contacts with the Chev's two-year-old. Exh. 7; RP 152-155. When asked if she had any children, defendant first denied. *Id.* He then admitted she had an 18-year old. *Id.* When pressed further, he stated that Chev also had a two to three-month-old. *Id.* However, based on his descriptions of the child walking, Delaney was able to determine the child was more than three months old. *Id.* She subsequently confirmed this by talking to Chev who said her youngest was two years old. *Id.* Defendant was also asked if he had ever been around the child. *Id.* Again, defendant denied. *Id.* But when pressed further he admitted he had given Chev a ride to drop off the child at a babysitter. *Id.* When the child was in the car, there was no car seat and she just sat in the car. *Id.* After denying multiple times that he was ever alone with the toddler, he finally admitted they had been in his car

alone while Chev went to pick up groceries or run errands. *Id.* However, he claimed he had never touched the child. Delaney found this suspicious. *Id.*

During the same interview, defendant admitted to taking Chev and her child to Wild Waves in Federal Way. RP 123, 155; Exh. 7. He claimed to have sat in the car when this occurred for up to five hours. *Id.* He also reported going to multiple water parks and parks where there are toys for kids to play on with the Chev and the two-year-old on numerous occasions. RP 123-124. He would stay parked in his car and could view lots of children at the park. *Id.* In total, defendant reported over forty contacts with the child. RP 125. Some of this information only came out when defendant had a pre-interview for a polygraph exam. RP 123.

Following the polygraph, for the first-time defendant admitted to touching the woman's breasts. RP 125. He did so in exchange for money. *Id.* He denied having touched her sexually at any other time. RP 125-126.

Delaney ultimately recommended SSOSA revocation. This was based on the amount of time both her and DeWaelche had spent with defendant going over conditions, defendant having contact with minors and not revealing it, spending time alone with minors, not following through on treatment and conditions, not having a support system in place, spending time with the woman, and exchanging money for sexual contact. RP 126. This last point was a particular concern because it was reminiscent of his

original offense. RP 126-127. Based upon the results of the polygraph exam and the perceived violations, Delaney arrested defendant. RP 156.

C. ARGUMENT.

1. THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION WHEN IT REVOKED DEFENDANT'S SSOSA BASED UPON VIOLATIONS OF SSOSA CONDITIONS AND FAILURE TO MAKE SATISFACTORY PROGRESS IN TREATMENT.

SSOSA allows for a sentencing court to suspend the sentence of a first time sexual offender provided the offender is shown to be amenable to treatment. *State v. Dahl*, 139 Wn.2d 678, 682, 990 P.2d 396 (1999). An offender's SSOSA may be revoked at any time if a court is reasonably satisfied that an offender has violated a condition of his suspended sentence or fails to make satisfactory progress in treatment. *Id.*

Under the Sentencing Reform Act...the trial court may revoke a SSOSA sentence whenever the defendant violates the conditions of the suspended sentence or the court finds the defendant is failing to make satisfactory progress in treatment.

*State v. McCormick*, 166 Wn.2d 689, 698, 213 P.3d 32 (2009). A trial court does not abuse its discretion when, even if the testimony and evidence show a defendant has completed treatment, a defendant has gone a long time without violations, and is a low to medium risk to reoffend.

*State v. Miller* 159 Wn. App. 911, 922, 247 P.3d 457 (2011).

The plain language of the SSOSA statutes make it clear that there is no requirement for a court to find defendant willfully violated a condition which does not involve legal financial obligations or community service obligations. *McCormick*, 166 Wn.2d at 698. Similarly, defendant's due process rights are not implicated or violated when the State does not prove a willful violation. *McCormick*, 166 Wn.2d at 703.

Revocation of a suspended sentence due to violations of SSOSA conditions rests within the sound discretion of the trial court and will not be disturbed absent an abuse of discretion. *McCormick*, 166 Wn.2d at 705-706. An abuse of discretion occurs only when the decision of the court is "manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons." *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

In *Miller*, defendant had successfully completed his sex offender treatment, was having less restrictive community custody conditions imposed by both his CCO and the court, and had no known violations of his community custody conditions for a period of at least six years and potentially as many as eight years. *Miller*, 159 Wn. App. at 915-916. Miller then violated numerous conditions of his community custody by becoming involved with a woman who had a minor child who was similar in age to the child against whom defendant had previously offended, had

unsupervised contact with the child, failed to disclose violations, and lied about committing the violations. *Miller*, 159 Wn. App. at 919-923. The trial court also made it clear how it had previously warned Miller that he was in grave danger of being revoked and any further violations would result in revocation. *Miller*, 159 Wn. App. at 921. The trial court revoked on these grounds. *Miller*, 159 Wn. App. at 919-923. On appeal, the revocation was affirmed. *Miller*, 159 Wn. App. at 914. The appellate court found each of these reasons were legitimate to revoke defendant's SSOSA. *Miller*, 159 Wn. App. at 923. It did not matter that he had completed treatment or he had almost completed his community custody. *Id.* All that mattered is he had violated his conditions and was unwilling to change. *Id.*

Here, similar factual circumstances exist. First, defendant appears to have been involved with a woman, Chev, who had a child similar in age to defendant's victims when he first began sexually abusing them. RP 57, 59, 111-113, 251. Chev's daughter was two-years-old. RP 111-113. By his own admission, when defendant first began sexually assaulting his victims, they were in their cribs and he undid their diapers to fondle their vaginas. RP 30, 251. Second, defendant had contact with the child on at least forty different occasions. RP 125. These included numerous times when he was alone with the child. Exh. 7; RP 152-155. Third, defendant failed to disclose these contacts to both his CCO and treatment provider. RP 63, 111-113.

Defendant continued to commit other violations and failed to disclose those as well. *Id.* This included remaining in contact with Chev, traveling to King County without permission, and most concerning, being in areas where children congregate, particularly water parks and playgrounds. *Id.* Finally, defendant lied about these violations. RP 152-153. Defendant only admitted to committing these violations when he was pressed further and subject to a polygraph exam. *Id.* These violations are virtually identical to the violations in *Miller*. Additionally, just like in *Miller*, defendant here was warned at the time of sentencing that if he violated his conditions, he would be revoked. RP 19, 38, 266.

Defendant's violations though are arguably more severe and more concerning than those in *Miller*. In this case, defendant intentionally went to areas where minors congregate. RP 111-113. He knew he was not supposed to be in these areas based upon his behavior. RP 123-124. When he went to Wild Waves and playgrounds, he would not leave his car. *Id.* He would simply wait in his car at the locations. *Id.* This was his way to try to avoid getting sanctions for his actions. *Id.* Yet, throughout the entire time he was in his car, he would have a full view of the playground and potentially kids entering and leaving a water park. *Id.* Intentionally going to places where minors were congregating increased his potential victim pool

to any child there. This is arguably more predatory than the actions in *Miller*.

Defendant also was discharged from treatment by DeWaelche. RP 56-58, 66-67; Exh. 1. Discharge in treatment would be failure to make satisfactory progress in treatment. Failure to make satisfactory progress in treatment was one of the grounds for SSOSA revocation. CP 231-253. This on its own is a valid reason for revocation. RCW 9.94A.670(11)(b).

Because defendant had contact with a minor who was similar in age to defendant's victims, he had unsupervised contact with the child, he failed to disclose these contacts, he lied about the violations, he went to areas where children congregate, and he failed to make satisfactory progress in treatment, the court did not abuse its discretion in revoking defendant's SSOSA. This Court should affirm the revocation.

- a. Defendant violated DOC conditions he was required to follow to remain in compliance with his SSOSA.

As previously stated, a court may revoke a SSOSA whenever an offender violates a condition of their sentence or fails to make satisfactory progress in treatment. RCW 9.94A.670(11). The trial court here revoked defendant's SSOSA based on five violations of SSOSA conditions and failure to make satisfactory progress in treatment. CP 150-164, 231-253.

This Court has affirmed a SSOSA revocation based upon a single violation. *State v. Detwiler*, 2016 WL 2874029 at \* 8.<sup>3</sup>

Defendant asserts that two of the six violations were invalid as they were either unconstitutionally vague or were not crime related. *See* Brf. of App. at 19. Defendant also claims the trial court did not enter thorough written or oral findings for due process purposes. *See* Brf. of App. at 18-19. Defendant is wrong on both arguments.

For the violations defendant challenges as improper - not being able to purchase alcohol and not being able to be in a romantic relationship - these conditions were not solely imposed by the court. RP 101. Each condition was also separately ordered by Delaney in her role as defendant's CCO. RP 106, 110, 132. These conditions are standard conditions imposed by probation. RP 101. Defendant cites to no authority which states DOC cannot impose separate conditions from the court and that those conditions must be crime related. On the contrary, RCW 9.94A.704(2)(a) states, "[DOC] shall assess the offender's risk of reoffense and *may establish* and modify *additional conditions of community custody* based upon the risk to

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<sup>3</sup> Unpublished opinions of the Court of Appeals are those opinions not published in the Washington Appellate Reports. Unpublished opinions of the Court of Appeals have no precedential value and are not binding on any court. However, unpublished opinions of the Court of Appeals filed on or after March 1, 2013, may be cited as nonbinding authorities, if identified as such by the citing party, and may be accorded such persuasive value as the court deems appropriate. GR 14.1

community safety.” (emphasis added). Allowing DOC to set certain community custody conditions is a permissible delegation of sentencing authority to DOC. *State v. McWilliams*, 177 Wn. App. 139, 154, 177 P.3d 685 (2013). DOC must simply notify the defendant in writing of these additional conditions or modifications. RCW 9.94A.704(7)(a). When entering community custody, defendant here was provided written documentation of DOC imposed conditions and signed agreeing to abide by them and acknowledging receipt. *Id.*

Five of the six reasons the State moved for revocation of defendant’s SSOSA were due to violations of conditions as established by both the trial court *and* DOC. CP 150-164 (emphasis added). Even if any of the court’s community custody conditions were invalid, they were still valid based upon DOC’s imposition of the conditions. Defendant violated DOC’s conditions. He cites to no authority to support the proposition that DOC conditions have the same standards and requirements as court imposed conditions. The trial court properly exercised its discretion by revoking defendant’s SSOSA. As such this Court should affirm the revocation.

- b. Even if two community custody conditions were imposed in error, the trial court still did not abuse its discretion in revoking defendant’s SSOSA.

When the judgment of the trial court can be affirmed on any ground, regardless of if such was stated by the trial court, it is the duty of

an appellate court to affirm. *State v. Carroll*, 81 Wn.2d 95, 101, 500 P.2d 115 (1972); *see also State v. Donaghe*, 152 Wn. App. 97, 106, 215 P.3d 232 (2009).

Regardless of if two reasons for revocation are invalid, the trial court still had four valid reasons why it revoked defendant's SSOSA: (1) failing to abide by court and DOC conditions by having contact with minors; (2) failing to abide by court and DOC conditions by going to areas where minors congregate; (3) failing to abide by court and DOC conditions by leaving Pierce County without permission; and (4) failing to make satisfactory progress in treatment. CP 150-164; CP 231-253. Defense counsel even conceded how his client was in violation by having unauthorized and unsupervised contact with a minor. RP 254-255.

Defendant now asserts that the trial court was not clear in its reasoning for revocation. *See* Brf. of App. at 17. But the trial court's order here made it clear that while the evidence established defendant committed all six charged violations, "...the court is reasonably satisfied that revocation is appropriate for *any one of these violations*. CP 231-253 (emphasis added). Any one of the four uncontested violations would be sufficient for revocation, even without the other two allegedly invalid violations. *See* RCW 9.94A.670(11); *see also Detwiler*, 2016 WL 2874029 at \* 8. This is especially true when our legislature has made it clear that

failing to make unsatisfactory progress in treatment is grounds alone for SSOSA revocation, even when there are no violations of conditions of release. RCW 9.94A.670(11)(b). Revocation on such alone means the trial court did not abuse its discretion. His treatment provider DeWaelche stated defendant was discharged from treatment due to not making satisfactory progress. RP 56-58, 66-67; Exh. 1. Hence, revocation was valid.

The court though went further than just stating in its order how any reason for revocation was sufficient on its own. The court's oral ruling stated, "...[Defendant] chose not to disclose the full amount of his contact with her child, particular in [Chev's] home." RP 267. Unauthorized and deceptive behavior about contact with a child is enough to revoke SSOSA. *Miller*, 159 Wn. App. at 219-220. This is on top of the court warning to defendant at sentencing that any violations of his SSOSA conditions would result in revocation. RP 19.

The trial court did not abuse its discretion by revoking defendant's SSOSA. Even if two of the violations are invalid, the court made clear that any one violation would be sufficient for revocation. Defendant's three community custody violations or failure to make satisfactory progress in treatment are valid grounds for revocation. This Court should affirm defendant's SSOSA revocation.

2. REMAND IS APPROPRIATE TO STRIKE OR AMEND PORTIONS OF TWO COMMUNITY CUSTODY CONDITIONS.
  - a. The State concedes the phrase “romantic relationship” is unconstitutionally vague, though the phrase “dating relationship” is valid.

Article I, section 3 of the Washington State constitution and the Fourteenth Amendment of the United States constitution prohibits community custody conditions from being unconstitutionally vague. *State v. Nguyen*, - Wn.2d -, 425 P.3d 847, 851 (2018). A community custody condition is unconstitutionally vague if it either (1) does not define the crime with sufficient definiteness for an ordinary person to know what conduct is allowed; or (2) does not provide ascertainable standards to determine compliance against arbitrary enforcement. *City of Spokane v. Douglass*, 115 Wn.2d 171, 178, 795 P.2d 693 (1990). Our Supreme Court has found the word “romantic” to be “a highly subjective qualif[er].” *Nguyen*, 425 P.3d at 853. However, the phrase “dating relationship” is constitutionally sufficient. *Id.*

Community custody condition number (b)(20) in Appendix H of defendant’s judgment and sentence states defendant must, “inform [his] community corrections officer of an romantic relationships to verify there are no victim age children involved.” CP 104-106. Per *Nguyen*, this phrase is unconstitutionally vague. *Nguyen*, 425 P.3d at 853. The State concedes

remand is appropriate to amend the condition. On remand, the condition should be amended to refer to “dating relationship” instead of “romantic relationships.”<sup>4</sup>

- b. The State concedes the words “purchase” and “possess” relating to defendant’s alcohol restrictions are not crime related.

A sentencing court can impose a community custody condition which is a “crime-related prohibition.” RCW 9.94A.030(10). A condition is “crime-related” if it prohibits “conduct that directly relates to the circumstances of the crime for which the offender has been convicted.” *Id.* A court has discretion to impose a condition prohibiting consumption of alcohol even if it is not crime related. RCW 9.94A.703(3)(f). Appellate courts review imposition of crime-related prohibitions for abuse of discretion. *State v. Irwin*, 191 Wn. App. 644, 656, 364 P.3d 830 (2015).

Here, community custody condition (b)(14) from Appendix H states defendant shall not “purchase, possess, or consume alcohol.” CP 104-106. The State concedes the purchase and possession of alcohol are not crime related. This court should remand to amend the condition. On remand the words “purchase” and “possess” should be stricken. The prohibition on

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<sup>4</sup> Defendant does not challenge that this condition is not crime related. As such, an amendment versus striking the whole condition is appropriate.

consuming alcohol should remain as it is a valid discretionary community custody condition, regardless of if it is crime related. RCW 9.94A.703(3)(f).

3. DEFENDANT IS STILL SUBJECT TO THE \$200 CRIMINAL FILING FEE AS HOUSE BILL 1783 WAS PASSED AFTER HIS JUDGMENT AND SENTENCE BECAME FINAL.

Our Supreme Court has found that in the context of PRPs, changes in the law are not a material and significant change. *Matter of Flippo*, 187 Wn.2d 106, 113, 385 P.3d 128 (2016). Nor does the incorrect imposition of legal financial obligations (LFOs) render a judgment and sentence facially invalid. *Filippo*, 187 Wn.2d at 110. This is true even in the *Blazina* context for the imposition of discretionary LFOs. *Flippo*, 187 Wn.2d at 113. Thus, a defendant cannot get around the one year time bar prohibition by claiming there is a significant change in the law. *Id.*

House Bill (HB) 1783 as passed by the legislature in 2018 amends former RCW 36.18.020(2)(h) to convert the \$200 criminal filing fee from a mandatory LFO to a discretionary one. Laws of 2018, ch. 269, § 17(2)(h); *See also State v. Ramirez*, - Wn.2d -, 426 P.3d 714, Slip Op. at 7-8 (2018). *Ramirez*, reaffirmed precedent that a statute amending or imposing costs applies prospectively to cases on direct appeal. *Ramirez*, Slip Op. at 21-22. (citing *State v. Blank*, 131 Wn.2d 230, 249, 930 P.2d 1213 (1997)). Because Ramirez's appeal was pending when HB 1783 became effective, the criminal filing fee was improperly imposed. *Ramirez*, Slip Op. at 22-23.

Thus, remand to strike the condition was necessary. *Id.* **Ramirez** was a case where the appeal from defendant's original judgment and sentence regarding LFOs was still pending when HB 1783 became law. **Ramirez**, Slip Op. at 6. His appeal was still proceeding through the court system from his underlying conviction. *Id.*

Defendant's conviction here became final when his judgment and sentence was entered on January 22, 2016. CP 86-103. Defendant did not file a direct appeal regarding his underlying conviction. HB 1783 was introduced in the legislature on January 30, 2017, over one year after defendant's judgment and sentence became final. Appendix A. It became effective on June 7, 2018. Appendix B. At no time during the pendency of defendant's case was HB 1783 the law of the land.

Unlike **Ramirez**, this appeal is not an appeal steaming from defendant's underlying conviction. Rather, it is an appeal from a revocation hearing. Issues related to the trial court's imposition of LFOs was not addressed at the revocation hearing. **Ramirez** does not stand for the proposition that defendant is entitled to the relief he seeks: having the criminal filing fee struck from his judgment and sentence following a revocation hearing. **Ramirez** only stands for the proposition that HB 1783 applies prospectively to cases on direct appeal from the underlying conviction and judgment and sentence when it became effective. **Ramirez**,

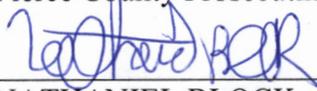
Slip Op. at 22-23. Defendant's case is not such a situation. HB 1783 is not a material and significant change in the law nor does it make defendant's judgment and sentence facially invalid. Thus, this Court should reject his argument and affirm the trial court's proper imposition of the \$200 criminal filing fee.

D. CONCLUSION.

The trial court properly exercised its discretion in revoking defendant's SSOSA. The court found six unique and valid reasons to revoke his SSOSA. Even if two of the six reasons are invalid, the other four alone are sufficient to revoke. HB 1783 does not apply prospectively to defendant and the \$200 criminal filing fee should remain imposed. However, remand is appropriate to amend two community custody conditions. This Court should affirm the revocation and criminal filing fee and remand only to amend the community custody conditions.

DATED: November 2, 2018.

MARK LINDQUIST  
Pierce County Prosecuting Attorney

  
\_\_\_\_\_  
NATHANIEL BLOCK  
Deputy Prosecuting Attorney  
WSB # 53939

Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

11/5/18   
Date Signature

## **APPENDIX “A”**

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HOUSE BILL 1783

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Holy, Goodman, Hansen, Hayes, Stokesbary, Senn, Orwall, Kagi, Appleton, Kilduff, Rodne, Jinkins, Taylor, Shea, Tharinger, Frame, Fitzgibbon, Bergquist, Fey, Macri, Ryu, Doglio, Pellicciotti, Peterson, Santos, Reeves, Kloba, Robinson, Stanford, Hudgins, McBride, Ormsby, and Pollet

Read first time 01/30/17. Referred to Committee on Judiciary.

1 AN ACT Relating to legal financial obligations; amending RCW  
2 10.82.090, 3.50.100, 3.62.040, 35.20.220, 10.01.160, 10.01.170,  
3 10.01.180, 10.46.190, 10.64.015, 9.92.070, 10.73.160, 9.94A.6333,  
4 9.94A.760, 9.94B.040, 3.62.085, 36.18.020, 43.43.7541, and 7.68.035;  
5 reenacting and amending RCW 3.62.020; adding a new section to chapter  
6 2.56 RCW; creating a new section; and providing an expiration date.

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

8 **Sec. 1.** RCW 10.82.090 and 2015 c 265 s 23 are each amended to  
9 read as follows:

10 (1) Except as provided in subsection (2) of this section,  
11 (~~financial obligations~~) restitution imposed in a judgment shall  
12 bear interest from the date of the judgment until payment, at the  
13 rate applicable to civil judgments. As of the effective date of this  
14 section, no interest shall accrue on nonrestitution legal financial  
15 obligations. All nonrestitution interest retained by the court shall  
16 be split twenty-five percent to the state treasurer for deposit in  
17 the state general fund, twenty-five percent to the state treasurer  
18 for deposit in the judicial information system account as provided in  
19 RCW 2.68.020, twenty-five percent to the county current expense fund,  
20 and twenty-five percent to the county current expense fund to fund  
21 local courts.

1 (2) The court may, on motion by the offender, following the  
2 offender's release from total confinement, reduce or waive the  
3 interest on legal financial obligations levied as a result of a  
4 criminal conviction as follows:

5 (a) The court shall waive all interest on the portions of the  
6 legal financial obligations that are not restitution that accrued  
7 ~~((during the term of total confinement for the conviction giving rise  
8 to the financial obligations, provided the offender shows that the  
9 interest creates a hardship for the offender or his or her immediate  
10 family))~~ prior to the effective date of this section;

11 (b) The court may reduce interest on the restitution portion of  
12 the legal financial obligations only if the principal has been paid  
13 in full(~~+~~

14 ~~(c) The court may otherwise reduce or waive the interest on the  
15 portions of the legal financial obligations that are not restitution  
16 if the offender shows that he or she has personally made a good faith  
17 effort to pay and that the interest accrual is causing a significant  
18 hardship. For purposes of this section, "good faith effort" means  
19 that the offender has either (i) paid the principal amount in full;  
20 or (ii) made at least fifteen monthly payments within an eighteen-  
21 month period, excluding any payments mandatorily deducted by the  
22 department of corrections;~~

23 ~~(d) For purposes of (a) through (c) of this subsection, the court  
24 may reduce or waive interest on legal financial obligations only))~~  
25 and as an incentive for the offender to meet his or her other legal  
26 financial obligations. The court may grant the motion, establish a  
27 payment schedule, and retain jurisdiction over the offender for  
28 purposes of reviewing and revising the reduction or waiver of  
29 interest.

30 (3) This section only applies to adult offenders.

31 **Sec. 2.** RCW 3.50.100 and 2012 c 136 s 3 are each amended to read  
32 as follows:

33 (1) Costs in civil and criminal actions may be imposed as  
34 provided in district court. All fees, costs, fines, forfeitures and  
35 other money imposed by any municipal court for the violation of any  
36 municipal or town ordinances shall be collected by the court clerk  
37 and, together with any other noninterest revenues received by the  
38 clerk, shall be deposited with the city or town treasurer as a part  
39 of the general fund of the city or town, or deposited in such other

1 fund of the city or town, or deposited in such other funds as may be  
2 designated by the laws of the state of Washington.

3 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
4 treasurer shall remit monthly thirty-two percent of the noninterest  
5 money received under this section, other than for parking  
6 infractions, and certain costs to the state treasurer. "Certain  
7 costs" as used in this subsection, means those costs awarded to  
8 prevailing parties in civil actions under RCW 4.84.010 or 36.18.040,  
9 or those costs awarded against convicted defendants in criminal  
10 actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other  
11 similar statutes if such costs are specifically designated as costs  
12 by the court and are awarded for the specific reimbursement of costs  
13 incurred by the state, county, city, or town in the prosecution of  
14 the case, including the fees of defense counsel. Money remitted under  
15 this subsection to the state treasurer shall be deposited in the  
16 state general fund.

17 (3) The balance of the noninterest money received under this  
18 section shall be retained by the city and deposited as provided by  
19 law.

20 (4) (a) Except as provided in (b) of this subsection, penalties,  
21 finances, ((bail forfeitures,)) fees, and costs may accrue interest at  
22 the rate of twelve percent per annum, upon assignment to a collection  
23 agency. Interest may accrue only while the case is in collection  
24 status.

25 (b) As of the effective date of this section, penalties, fines,  
26 bail forfeitures, fees, and costs imposed against a defendant in a  
27 criminal proceeding shall not accrue interest.

28 (5) Interest retained by the court on penalties, fines, bail  
29 forfeitures, fees, and costs shall be split twenty-five percent to  
30 the state treasurer for deposit in the state general fund, twenty-  
31 five percent to the state treasurer for deposit in the judicial  
32 information system account as provided in RCW 2.68.020, twenty-five  
33 percent to the city general fund, and twenty-five percent to the city  
34 general fund to fund local courts.

35 **Sec. 3.** RCW 3.62.020 and 2012 c 262 s 1, 2012 c 136 s 4, and  
36 2012 c 134 s 6 are each reenacted and amended to read as follows:

37 (1) Except as provided in subsection (4) of this section, all  
38 costs, fees, fines, forfeitures and penalties assessed and collected  
39 in whole or in part by district courts, except costs, fines,

1 forfeitures and penalties assessed and collected, in whole or in  
2 part, because of the violation of city ordinances, shall be remitted  
3 by the clerk of the district court to the county treasurer at least  
4 monthly, together with a financial statement as required by the state  
5 auditor, noting the information necessary for crediting of such funds  
6 as required by law.

7 (2) Except as provided in RCW 9A.88.120, 10.99.080, 7.84.100(4),  
8 and this section, the county treasurer shall remit thirty-two percent  
9 of the noninterest money received under subsection (1) of this  
10 section except certain costs to the state treasurer. "Certain costs"  
11 as used in this subsection, means those costs awarded to prevailing  
12 parties in civil actions under RCW 4.84.010 or 36.18.040, or those  
13 costs awarded against convicted defendants in criminal actions under  
14 RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if  
15 such costs are specifically designated as costs by the court and are  
16 awarded for the specific reimbursement of costs incurred by the state  
17 or county in the prosecution of the case, including the fees of  
18 defense counsel. With the exception of funds to be transferred to the  
19 judicial stabilization trust account under RCW 3.62.060(2), money  
20 remitted under this subsection to the state treasurer shall be  
21 deposited in the state general fund.

22 (3) The balance of the noninterest money received by the county  
23 treasurer under subsection (1) of this section shall be deposited in  
24 the county current expense fund. Funds deposited under this  
25 subsection that are attributable to the county's portion of a  
26 surcharge imposed under RCW 3.62.060(2) must be used to support local  
27 trial court and court-related functions.

28 (4) Except as provided in RCW 7.84.100(4), all money collected  
29 for county parking infractions shall be remitted by the clerk of the  
30 district court at least monthly, with the information required under  
31 subsection (1) of this section, to the county treasurer for deposit  
32 in the county current expense fund.

33 (5) (a) Except as provided in (b) of this subsection, penalties,  
34 finances, ((bail forfeitures,)) fees, and costs may accrue interest at  
35 the rate of twelve percent per annum, upon assignment to a collection  
36 agency. Interest may accrue only while the case is in collection  
37 status.

38 (b) As of the effective date of this section, penalties, fines,  
39 bail forfeitures, fees, and costs imposed against a defendant in a  
40 criminal proceeding shall not accrue interest.

1 (6) Interest retained by the court on penalties, fines, bail  
2 forfeitures, fees, and costs shall be split twenty-five percent to  
3 the state treasurer for deposit in the state general fund, twenty-  
4 five percent to the state treasurer for deposit in the judicial  
5 information system account as provided in RCW 2.68.020, twenty-five  
6 percent to the county current expense fund, and twenty-five percent  
7 to the county current expense fund to fund local courts.

8 **Sec. 4.** RCW 3.62.040 and 2012 c 136 s 5 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (4) of this section, all  
11 costs, fines, forfeitures and penalties assessed and collected, in  
12 whole or in part, by district courts because of violations of city  
13 ordinances shall be remitted by the clerk of the district court at  
14 least monthly directly to the treasurer of the city wherein the  
15 violation occurred.

16 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
17 treasurer shall remit monthly thirty-two percent of the noninterest  
18 money received under this section, other than for parking infractions  
19 and certain costs, to the state treasurer. "Certain costs" as used in  
20 this subsection, means those costs awarded to prevailing parties in  
21 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
22 against convicted defendants in criminal actions under RCW 10.01.160,  
23 10.46.190, or 36.18.040, or other similar statutes if such costs are  
24 specifically designated as costs by the court and are awarded for the  
25 specific reimbursement of costs incurred by the state, county, city,  
26 or town in the prosecution of the case, including the fees of defense  
27 counsel. Money remitted under this subsection to the state treasurer  
28 shall be deposited in the state general fund.

29 (3) The balance of the noninterest money received under this  
30 section shall be retained by the city and deposited as provided by  
31 law.

32 (4) All money collected for city parking infractions shall be  
33 remitted by the clerk of the district court at least monthly to the  
34 city treasurer for deposit in the city's general fund.

35 (5) (a) Except as provided in (b) of this subsection, penalties,  
36 fines, ((bail forfeitures,)) fees, and costs may accrue interest at  
37 the rate of twelve percent per annum, upon assignment to a collection  
38 agency. Interest may accrue only while the case is in collection  
39 status.

1        (b) As of the effective date of this section, penalties, fines,  
2 bail forfeitures, fees, and costs imposed against a defendant in a  
3 criminal proceeding shall not accrue interest.

4        (6) Interest retained by the court on penalties, fines, bail  
5 forfeitures, fees, and costs shall be split twenty-five percent to  
6 the state treasurer for deposit in the state general fund, twenty-  
7 five percent to the state treasurer for deposit in the judicial  
8 information system account as provided in RCW 2.68.020, twenty-five  
9 percent to the city general fund, and twenty-five percent to the city  
10 general fund to fund local courts.

11        **Sec. 5.** RCW 35.20.220 and 2012 c 136 s 7 are each amended to  
12 read as follows:

13        (1) The chief clerk, under the supervision and direction of the  
14 court administrator of the municipal court, shall have the custody  
15 and care of the books, papers and records of the court. The chief  
16 clerk or a deputy shall be present during the session of the court  
17 and has the power to swear all witnesses and jurors, administer oaths  
18 and affidavits, and take acknowledgments. The chief clerk shall keep  
19 the records of the court and shall issue all process under his or her  
20 hand and the seal of the court. The chief clerk shall do and perform  
21 all things and have the same powers pertaining to the office as the  
22 clerks of the superior courts have in their office. He or she shall  
23 receive all fines, penalties, and fees of every kind and keep a full,  
24 accurate, and detailed account of the same. The chief clerk shall on  
25 each day pay into the city treasury all money received for the city  
26 during the day previous, with a detailed account of the same, and  
27 taking the treasurer's receipt therefor.

28        (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
29 treasurer shall remit monthly thirty-two percent of the noninterest  
30 money received under this section, other than for parking infractions  
31 and certain costs to the state treasurer. "Certain costs" as used in  
32 this subsection, means those costs awarded to prevailing parties in  
33 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
34 against convicted defendants in criminal actions under RCW 10.01.160,  
35 10.46.190, or 36.18.040, or other similar statutes if such costs are  
36 specifically designated as costs by the court and are awarded for the  
37 specific reimbursement of costs incurred by the state, county, city,  
38 or town in the prosecution of the case, including the fees of defense

1 counsel. Money remitted under this subsection to the state treasurer  
2 shall be deposited in the state general fund.

3 (3) The balance of the noninterest money received under this  
4 section shall be retained by the city and deposited as provided by  
5 law.

6 (4) (a) Except as provided in (b) of this subsection, penalties,  
7 finer, ((bail forfeitures,)) fees, and costs may accrue interest at  
8 the rate of twelve percent per annum, upon assignment to a collection  
9 agency. Interest may accrue only while the case is in collection  
10 status.

11 (b) As of the effective date of this section, penalties, fines,  
12 bail forfeitures, fees, and costs imposed against a defendant in a  
13 criminal proceeding shall not accrue interest.

14 (5) Interest retained by the court on penalties, fines, bail  
15 forfeitures, fees, and costs shall be split twenty-five percent to  
16 the state treasurer for deposit in the state general fund, twenty-  
17 five percent to the state treasurer for deposit in the judicial  
18 information system account as provided in RCW 2.68.020, twenty-five  
19 percent to the city general fund, and twenty-five percent to the city  
20 general fund to fund local courts.

21 **Sec. 6.** RCW 10.01.160 and 2015 3rd sp.s. c 35 s 1 are each  
22 amended to read as follows:

23 (1) Except as provided in subsection (3) of this section, the  
24 court may require a defendant to pay costs. Costs may be imposed only  
25 upon a convicted defendant, except for costs imposed upon a  
26 defendant's entry into a deferred prosecution program, costs imposed  
27 upon a defendant for pretrial supervision, or costs imposed upon a  
28 defendant for preparing and serving a warrant for failure to appear.

29 (2) Costs shall be limited to expenses specially incurred by the  
30 state in prosecuting the defendant or in administering the deferred  
31 prosecution program under chapter 10.05 RCW or pretrial supervision.  
32 They cannot include expenses inherent in providing a constitutionally  
33 guaranteed jury trial or expenditures in connection with the  
34 maintenance and operation of government agencies that must be made by  
35 the public irrespective of specific violations of law. Expenses  
36 incurred for serving of warrants for failure to appear and jury fees  
37 under RCW 10.46.190 may be included in costs the court may require a  
38 defendant to pay. Costs for administering a deferred prosecution may  
39 not exceed two hundred fifty dollars. Costs for administering a

1 pretrial supervision other than a pretrial electronic alcohol  
2 monitoring program, drug monitoring program, or 24/7 sobriety program  
3 may not exceed one hundred fifty dollars. Costs for preparing and  
4 serving a warrant for failure to appear may not exceed one hundred  
5 dollars. Costs of incarceration imposed on a defendant convicted of a  
6 misdemeanor or a gross misdemeanor may not exceed the actual cost of  
7 incarceration. In no case may the court require the offender to pay  
8 more than one hundred dollars per day for the cost of incarceration.  
9 Payment of other court-ordered financial obligations, including all  
10 legal financial obligations and costs of supervision take precedence  
11 over the payment of the cost of incarceration ordered by the court.  
12 All funds received from defendants for the cost of incarceration in  
13 the county or city jail must be remitted for criminal justice  
14 purposes to the county or city that is responsible for the  
15 defendant's jail costs. Costs imposed constitute a judgment against a  
16 defendant and survive a dismissal of the underlying action against  
17 the defendant. However, if the defendant is acquitted on the  
18 underlying action, the costs for preparing and serving a warrant for  
19 failure to appear do not survive the acquittal, and the judgment that  
20 such costs would otherwise constitute shall be vacated.

21 (3) The court shall not order a defendant to pay costs (~~((unless))~~)  
22 if the defendant ((is or will be able to pay them)) at the time of  
23 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
24 (c). In determining the amount and method of payment of costs for  
25 defendants who are not indigent as defined in RCW 10.101.010(3) (a)  
26 through (c), the court shall take account of the financial resources  
27 of the defendant and the nature of the burden that payment of costs  
28 will impose.

29 (4) A defendant who has been ordered to pay costs and who is not  
30 in (~~((contumacious))~~) willful default in the payment thereof may at any  
31 time after release from total confinement petition the sentencing  
32 court for remission of the payment of costs or of any unpaid portion  
33 thereof. If it appears to the satisfaction of the court that payment  
34 of the amount due will impose manifest hardship on the defendant or  
35 the defendant's immediate family, the court may remit all or part of  
36 the amount due in costs, (~~((or))~~) modify the method of payment under  
37 RCW 10.01.170, or with the defendant's consent convert the unpaid  
38 costs to community restitution hours at the rate of no less than the  
39 state minimum wage established in RCW 49.46.020 for each hour of

1 community restitution. Manifest hardship exists where the defendant  
2 is indigent as defined in RCW 10.101.010(3) (a) through (c).

3 (5) Except for direct costs relating to evaluating and reporting  
4 to the court, prosecutor, or defense counsel regarding a defendant's  
5 competency to stand trial as provided in RCW 10.77.060, this section  
6 shall not apply to costs related to medical or mental health  
7 treatment or services a defendant receives while in custody of the  
8 secretary of the department of social and health services or other  
9 governmental units. This section shall not prevent the secretary of  
10 the department of social and health services or other governmental  
11 units from imposing liability and seeking reimbursement from a  
12 defendant committed to an appropriate facility as provided in RCW  
13 10.77.084 while criminal proceedings are stayed. This section shall  
14 also not prevent governmental units from imposing liability on  
15 defendants for costs related to providing medical or mental health  
16 treatment while the defendant is in the governmental unit's custody.  
17 Medical or mental health treatment and services a defendant receives  
18 at a state hospital or other facility are not a cost of prosecution  
19 and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter  
20 43.20B RCW, and any other applicable statute.

21 **Sec. 7.** RCW 10.01.170 and 1975-'76 2nd ex.s. c 96 s 2 are each  
22 amended to read as follows:

23 (1) When a defendant is sentenced to pay ((a)) fines, penalties,  
24 assessments, fees, restitution, or costs, the court may grant  
25 permission for payment to be made within a specified period of time  
26 or in specified installments. If the court finds that the defendant  
27 is indigent as defined in RCW 10.101.010(3) (a) through (c), the  
28 court shall grant permission for payment to be made within a  
29 specified period of time or in specified installments. If no such  
30 permission is included in the sentence the fine or costs shall be  
31 payable forthwith.

32 (2) An offender's monthly payment shall be applied in the  
33 following order of priority until satisfied:

34 (a) First, proportionally to restitution to victims that have not  
35 been fully compensated from other sources;

36 (b) Second, proportionally to restitution to insurance or other  
37 sources with respect to a loss that has provided compensation to  
38 victims;

39 (c) Third, proportionally to crime victims' assessments; and

1 (d) Fourth, proportionally to costs, fines, and other assessments  
2 required by law.

3 **Sec. 8.** RCW 10.01.180 and 2010 c 8 s 1006 are each amended to  
4 read as follows:

5 (1) A defendant sentenced to pay ((~~a~~)) any fine, penalty,  
6 assessment, fee, or costs who willfully defaults in the payment  
7 thereof or of any installment is in contempt of court as provided in  
8 chapter 7.21 RCW. The court may issue a warrant of arrest for his or  
9 her appearance.

10 (2) When ((~~a~~)) any fine, penalty, assessment, fee, or assessment  
11 of costs is imposed on a corporation or unincorporated association,  
12 it is the duty of the person authorized to make disbursement from the  
13 assets of the corporation or association to pay the ((~~fine or costs~~))  
14 obligation from those assets, and his or her failure to do so may be  
15 held to be contempt.

16 (3)(a) The court shall not sanction a defendant for contempt  
17 based on failure to pay fines, penalties, assessments, fees, or costs  
18 unless the court finds, after a hearing and on the record, that the  
19 failure to pay is willful. A failure to pay is willful if the  
20 defendant has the current ability to pay but refuses to do so.

21 (b) In determining whether the defendant has the current ability  
22 to pay, the court shall inquire into and consider: (i) The  
23 defendant's income and assets; (ii) the defendant's basic living  
24 costs as defined by RCW 10.101.010 and other liabilities including  
25 child support and other legal financial obligations; and (iii) the  
26 defendant's bona fide efforts to acquire additional resources. A  
27 defendant who is indigent as defined by RCW 10.101.010(3) (a) through  
28 (c) is presumed to lack the current ability to pay.

29 (c) If the court determines that the defendant is homeless or a  
30 person who is mentally ill, as defined in RCW 71.24.025, failure to  
31 pay a legal financial obligation is not willful contempt and shall  
32 not subject the defendant to penalties.

33 (4) If a term of imprisonment for contempt for nonpayment of  
34 ((~~a~~)) any fine, penalty, assessment, fee, or costs is ordered, the  
35 term of imprisonment shall be set forth in the commitment order, and  
36 shall not exceed one day for each twenty-five dollars of the ((~~fine~~  
37 or costs)) amount ordered, thirty days if the ((~~fine or assessment~~))  
38 amount ordered of costs was imposed upon conviction of a violation or  
39 misdemeanor, or one year in any other case, whichever is the shorter

1 period. A person committed for nonpayment of ((a)) any fine, penalty,  
2 assessment, fee, or costs shall be given credit toward payment for  
3 each day of imprisonment at the rate specified in the commitment  
4 order.

5 ((4)) (5) If it appears to the satisfaction of the court that  
6 the default in the payment of ((a)) any fine, penalty, assessment,  
7 fee, or costs is not willful contempt, the court may, and if the  
8 defendant is indigent as defined in RCW 10.101.010(3) (a) through  
9 (c), the court shall enter an order: (a) Allowing the defendant  
10 additional time for payment((7)); (b) reducing the amount thereof or  
11 of each installment ((e)); (c) revoking the fine, penalty,  
12 assessment, fee, or costs or the unpaid portion thereof in whole or  
13 in part; or (d) with the defendant's consent converting the unpaid  
14 fine, penalty, assessment, fee, or costs to community restitution  
15 hours at the rate of no less than the state minimum wage established  
16 in RCW 49.46.020 for each hour of community restitution. The crime  
17 victim penalty assessment under RCW 7.68.035 may not be reduced,  
18 revoked, or converted to community restitution hours.

19 ((5)) (6) A default in the payment of ((a)) any fine, penalty,  
20 assessment, fee, or costs or any installment thereof may be collected  
21 by any means authorized by law for the enforcement of a judgment. The  
22 levy of execution for the collection of ((a)) any fine, penalty,  
23 assessment, fee, or costs shall not discharge a defendant committed  
24 to imprisonment for contempt until the amount ((of the fine or  
25 ~~costs~~)) has actually been collected.

26 **Sec. 9.** RCW 10.46.190 and 2005 c 457 s 12 are each amended to  
27 read as follows:

28 Every person convicted of a crime or held to bail to keep the  
29 peace ((shall)) may be liable to all the costs of the proceedings  
30 against him or her, including, when tried by a jury in the superior  
31 court or before a committing magistrate, a jury fee as provided for  
32 in civil actions for which judgment shall be rendered and collected.  
33 The court shall not order a defendant to pay costs, as described in  
34 RCW 10.01.160, if the court finds that the person at the time of  
35 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
36 (c). The jury fee, when collected for a case tried by the superior  
37 court, shall be paid to the clerk and applied as the jury fee in  
38 civil cases is applied.

1       **Sec. 10.** RCW 10.64.015 and Code 1881 s 1104 are each amended to  
2 read as follows:

3       When the defendant is found guilty, the court shall render  
4 judgment accordingly, and the defendant (~~shall~~) may be liable for  
5 all costs, unless the court or jury trying the cause expressly find  
6 otherwise. The court shall not order a defendant to pay costs, as  
7 described in RCW 10.01.160, if the court finds that the person at the  
8 time of sentencing is indigent as defined in RCW 10.101.010(3) (a)  
9 through (c).

10       **Sec. 11.** RCW 9.92.070 and 1987 c 3 s 4 are each amended to read  
11 as follows:

12       Hereafter whenever any judge of any superior court or a district  
13 or municipal judge shall sentence any person to pay any finer,  
14 penalties, assessments, fees, and costs, the judge may, in the  
15 judge's discretion, provide that such finer, penalties, assessments,  
16 fees, and costs may be paid in certain designated installments, or  
17 within certain designated period or periods(~~+~~and). If the court  
18 finds that the defendant is indigent as defined in RCW 10.101.010(3)  
19 (a) through (c), the court shall allow for payment in certain  
20 designated installments or within certain designated periods. If such  
21 finer, penalties, assessments, fees, and costs shall be paid by the  
22 defendant in accordance with such order no commitment or imprisonment  
23 of the defendant shall be made for failure to pay such fine or costs.  
24 PROVIDED, that the provisions of this section shall not apply to any  
25 sentence given for the violation of any of the liquor laws of this  
26 state.

27       **Sec. 12.** RCW 10.73.160 and 2015 c 265 s 22 are each amended to  
28 read as follows:

29       (1) Except as provided in subsection (4) of this section, the  
30 court of appeals, supreme court, and superior courts may require an  
31 adult offender convicted of an offense to pay appellate costs.

32       (2) Appellate costs are limited to expenses specifically incurred  
33 by the state in prosecuting or defending an appeal or collateral  
34 attack from a criminal conviction. Appellate costs shall not include  
35 expenditures to maintain and operate government agencies that must be  
36 made irrespective of specific violations of the law. Expenses  
37 incurred for producing a verbatim report of proceedings and clerk's

1 papers may be included in costs the court may require a convicted  
2 defendant to pay.

3 (3) Costs, including recoupment of fees for court-appointed  
4 counsel, shall be requested in accordance with the procedures  
5 contained in Title 14 of the rules of appellate procedure and in  
6 Title 9 of the rules for appeal of decisions of courts of limited  
7 jurisdiction. An award of costs shall become part of the trial court  
8 judgment and sentence.

9 (4) The court shall not order a defendant to pay appellate costs  
10 if the defendant is indigent as defined in RCW 10.101.010(3) (a)  
11 through (c) at the time the request for appellate costs is made.

12 (5) A defendant who has been sentenced to pay costs and who is  
13 not in (~~contumacious~~) willful default in the payment may at any  
14 time after release from total confinement petition the court that  
15 sentenced the defendant or juvenile offender for remission of the  
16 payment of costs or of any unpaid portion. If it appears to the  
17 satisfaction of the sentencing court that payment of the amount due  
18 will impose manifest hardship on the defendant or the defendant's  
19 immediate family, the sentencing court may remit all or part of the  
20 amount due in costs, (~~or~~) modify the method of payment under RCW  
21 10.01.170, or with the defendant's or juvenile offender's consent  
22 convert the unpaid costs to community restitution hours at the rate  
23 of no less than the state minimum wage established in RCW 49.46.020  
24 for each hour of community restitution. Manifest hardship exists  
25 where the defendant or juvenile offender is indigent as defined in  
26 RCW 10.101.010(3) (a) through (c).

27 (~~(5)~~) (6) The parents or another person legally obligated to  
28 support a juvenile offender who has been ordered to pay appellate  
29 costs and who is not in (~~contumacious~~) willful default in the  
30 payment may at any time petition the court that sentenced the  
31 juvenile offender for remission of the payment of costs or of any  
32 unpaid portion. If it appears to the satisfaction of the sentencing  
33 court that payment of the amount due will impose manifest hardship on  
34 the parents or another person legally obligated to support a juvenile  
35 offender or on their immediate families, the sentencing court may  
36 remit all or part of the amount due in costs, or may modify the  
37 method of payment.

38 **Sec. 13.** RCW 9.94A.6333 and 2008 c 231 s 19 are each amended to  
39 read as follows:

1 (1) If an offender violates any condition or requirement of a  
2 sentence, and the offender is not being supervised by the department,  
3 the court may modify its order of judgment and sentence and impose  
4 further punishment in accordance with this section.

5 (2) If an offender fails to comply with any of the nonfinancial  
6 conditions or requirements of a sentence the following provisions  
7 apply:

8 (a) The court, upon the motion of the state, or upon its own  
9 motion, shall require the offender to show cause why the offender  
10 should not be punished for the noncompliance. The court may issue a  
11 summons or a warrant of arrest for the offender's appearance;

12 (b) The state has the burden of showing noncompliance by a  
13 preponderance of the evidence;

14 (c) If the court finds that a violation has been proved, it may  
15 impose the sanctions specified in RCW 9.94A.633(1). Alternatively,  
16 the court may:

17 (i) Convert a term of partial confinement to total confinement;

18 or

19 (ii) Convert community restitution obligation to total or partial  
20 confinement; (~~or~~

21 ~~(iii) Convert monetary obligations, except restitution and the~~  
22 ~~crime victim penalty assessment, to community restitution hours at~~  
23 ~~the rate of the state minimum wage as established in RCW 49.46.020~~  
24 ~~for each hour of community restitution;))~~

25 (d) If the court finds that the violation was not willful, the  
26 court may modify its previous order regarding (~~payment of legal~~  
27 ~~financial obligations and regarding)) community restitution~~  
28 obligations; and

29 (e) If the violation involves a failure to undergo or comply with  
30 a mental health status evaluation and/or outpatient mental health  
31 treatment, the court shall seek a recommendation from the treatment  
32 provider or proposed treatment provider. Enforcement of orders  
33 concerning outpatient mental health treatment must reflect the  
34 availability of treatment and must pursue the least restrictive means  
35 of promoting participation in treatment. If the offender's failure to  
36 receive care essential for health and safety presents a risk of  
37 serious physical harm or probable harmful consequences, the civil  
38 detention and commitment procedures of chapter 71.05 RCW shall be  
39 considered in preference to incarceration in a local or state  
40 correctional facility.

1       (3) If an offender fails to pay legal financial obligations as a  
2 requirement of a sentence the following provisions apply:

3       (a) The court, upon the motion of the state, or upon its own  
4 motion, shall require the offender to show cause why the offender  
5 should not be punished for the noncompliance. The court may issue a  
6 summons or a warrant of arrest for the offender's appearance;

7       (b) The state has the burden of showing noncompliance by a  
8 preponderance of the evidence;

9       (c) The court may not sanction the offender for failure to pay  
10 legal financial obligations unless the court finds, after a hearing  
11 and on the record, that the failure to pay is willful. A failure to  
12 pay is willful if the offender has the current ability to pay but  
13 refuses to do so. In determining whether the offender has the current  
14 ability to pay, the court shall inquire into and consider: (i) The  
15 offender's income and assets; (ii) the offender's basic living costs  
16 as defined by RCW 10.101.010 and other liabilities including child  
17 support and other legal financial obligations; and (iii) the  
18 offender's bona fide efforts to acquire additional resources. An  
19 offender who is indigent as defined by RCW 10.101.010(3) (a) through  
20 (c) is presumed to lack the current ability to pay;

21       (d) If the court determines that the offender is homeless or a  
22 person who is mentally ill, as defined in RCW 71.24.025, failure to  
23 pay a legal financial obligation is not willful noncompliance and  
24 shall not subject the offender to penalties;

25       (e) If the court finds that a failure to pay is willful  
26 noncompliance, it may impose the sanctions specified in RCW  
27 9.94A.633(1); and

28       (f) If the court finds that the violation was not willful, the  
29 court may, and if the court finds that the defendant is indigent as  
30 defined in RCW 10.101.010(3) (a) through (c), the court shall modify  
31 the terms of payment of the legal financial obligations, reduce or  
32 waive nonrestitution legal financial obligations, or with the  
33 defendant's consent convert nonrestitution legal financial  
34 obligations to community restitution hours at the rate of no less  
35 than the state minimum wage established in RCW 49.46.020 for each  
36 hour of community restitution. The crime victim penalty assessment  
37 under RCW 7.68.035 may not be reduced, waived, or converted to  
38 community restitution hours.

1       (4) Any time served in confinement awaiting a hearing on  
2 noncompliance shall be credited against any confinement ordered by  
3 the court.

4       (~~(4)~~) (5) Nothing in this section prohibits the filing of  
5 escape charges if appropriate.

6       **Sec. 14.** RCW 9.94A.760 and 2011 c 106 s 3 are each amended to  
7 read as follows:

8       (1) Whenever a person is convicted in superior court, the court  
9 may order the payment of a legal financial obligation as part of the  
10 sentence. The court may not order an offender to pay costs as  
11 described in RCW 10.01.160 if the court finds that the offender at  
12 the time of sentencing is indigent as defined in RCW 10.101.010(3)  
13 (a) through (c). An offender being indigent as defined in RCW  
14 10.101.010(3) (a) through (c) is not grounds for failing to impose  
15 restitution or the crime victim penalty assessment under RCW  
16 7.68.035. The court must on either the judgment and sentence or on a  
17 subsequent order to pay, designate the total amount of a legal  
18 financial obligation and segregate this amount among the separate  
19 assessments made for restitution, costs, fines, and other assessments  
20 required by law. On the same order, the court is also to set a sum  
21 that the offender is required to pay on a monthly basis towards  
22 satisfying the legal financial obligation. If the court fails to set  
23 the offender monthly payment amount, the department shall set the  
24 amount if the department has active supervision of the offender,  
25 otherwise the county clerk shall set the amount.

26       (2) Upon receipt of (~~an offender's monthly~~) each payment (~~of~~  
27 ~~restitution shall be paid prior to any payments of other monetary~~  
28 ~~obligations. After restitution is satisfied~~) made by or on behalf of  
29 an offender, the county clerk shall distribute the payment  
30 (~~proportionally among all other fines, costs, and assessments~~  
31 ~~imposed, unless otherwise ordered by the court~~) in the following  
32 order of priority until satisfied:

33       (a) First, proportionally to restitution to victims that have not  
34 been fully compensated from other sources;

35       (b) Second, proportionally to restitution to insurance or other  
36 sources with respect to a loss that has provided compensation to  
37 victims;

38       (c) Third, proportionally to crime victims' assessments; and

1 (d) Fourth, proportionally to costs, fines, and other assessments  
2 required by law.

3 ~~((2))~~ (3) If the court determines that the offender, at the  
4 time of sentencing, has the means to pay for the cost of  
5 incarceration, the court may require the offender to pay for the cost  
6 of incarceration ~~((at))~~. The court shall not order the offender to  
7 pay the cost of incarceration if the court finds that the offender at  
8 the time of sentencing is indigent as defined in RCW 10.101.010(3)  
9 (a) through (c). Costs of incarceration ordered by the court shall  
10 not exceed a rate of fifty dollars per day of incarceration, if  
11 incarcerated in a prison, or the ~~((court may require the offender to~~  
12 ~~pay the))~~ actual cost of incarceration per day of incarceration, if  
13 incarcerated in a county jail. In no case may the court require the  
14 offender to pay more than one hundred dollars per day for the cost of  
15 incarceration. ~~((Payment of other court ordered financial~~  
16 ~~obligations, including all legal financial obligations and costs of~~  
17 ~~supervision shall take precedence over the payment of the cost of~~  
18 ~~incarceration ordered by the court.))~~ All funds recovered from  
19 offenders for the cost of incarceration in the county jail shall be  
20 remitted to the county and the costs of incarceration in a prison  
21 shall be remitted to the department.

22 ~~((3))~~ (4) The court may add to the judgment and sentence or  
23 subsequent order to pay a statement that a notice of payroll  
24 deduction is to be issued immediately. If the court chooses not to  
25 order the immediate issuance of a notice of payroll deduction at  
26 sentencing, the court shall add to the judgment and sentence or  
27 subsequent order to pay a statement that a notice of payroll  
28 deduction may be issued or other income-withholding action may be  
29 taken, without further notice to the offender if a monthly court-  
30 ordered legal financial obligation payment is not paid when due, and  
31 an amount equal to or greater than the amount payable for one month  
32 is owed.

33 If a judgment and sentence or subsequent order to pay does not  
34 include the statement that a notice of payroll deduction may be  
35 issued or other income-withholding action may be taken if a monthly  
36 legal financial obligation payment is past due, the department or the  
37 county clerk may serve a notice on the offender stating such  
38 requirements and authorizations. Service shall be by personal service  
39 or any form of mail requiring a return receipt.

1        (~~(4)~~) (5) Independent of the department or the county clerk,  
2 the party or entity to whom the legal financial obligation is owed  
3 shall have the authority to use any other remedies available to the  
4 party or entity to collect the legal financial obligation. These  
5 remedies include enforcement in the same manner as a judgment in a  
6 civil action by the party or entity to whom the legal financial  
7 obligation is owed. Restitution collected through civil enforcement  
8 must be paid through the registry of the court and must be  
9 distributed proportionately according to each victim's loss when  
10 there is more than one victim. The judgment and sentence shall  
11 identify the party or entity to whom restitution is owed so that the  
12 state, party, or entity may enforce the judgment. If restitution is  
13 ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of  
14 rape of a child or a victim's child born from the rape, the  
15 Washington state child support registry shall be identified as the  
16 party to whom payments must be made. Restitution obligations arising  
17 from the rape of a child in the first, second, or third degree that  
18 result in the pregnancy of the victim may be enforced for the time  
19 periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other  
20 legal financial obligations for an offense committed prior to July 1,  
21 2000, may be enforced at any time during the ten-year period  
22 following the offender's release from total confinement or within ten  
23 years of entry of the judgment and sentence, whichever period ends  
24 later. Prior to the expiration of the initial ten-year period, the  
25 superior court may extend the criminal judgment an additional ten  
26 years for payment of legal financial obligations including crime  
27 victims' assessments. All other legal financial obligations for an  
28 offense committed on or after July 1, 2000, may be enforced at any  
29 time the offender remains under the court's jurisdiction. For an  
30 offense committed on or after July 1, 2000, the court shall retain  
31 jurisdiction over the offender, for purposes of the offender's  
32 compliance with payment of the legal financial obligations, until the  
33 obligation is completely satisfied, regardless of the statutory  
34 maximum for the crime. The department may only supervise the  
35 offender's compliance with payment of the legal financial obligations  
36 during any period in which the department is authorized to supervise  
37 the offender in the community under RCW 9.94A.728, 9.94A.501, or in  
38 which the offender is confined in a state correctional institution or  
39 a correctional facility pursuant to a transfer agreement with the  
40 department, and the department shall supervise the offender's

1 compliance during any such period. The department is not responsible  
2 for supervision of the offender during any subsequent period of time  
3 the offender remains under the court's jurisdiction. The county clerk  
4 is authorized to collect unpaid legal financial obligations at any  
5 time the offender remains under the jurisdiction of the court for  
6 purposes of his or her legal financial obligations.

7 ~~((5))~~ (6) In order to assist the court in setting a monthly sum  
8 that the offender must pay during the period of supervision, the  
9 offender is required to report to the department for purposes of  
10 preparing a recommendation to the court. When reporting, the offender  
11 is required, under oath, to respond truthfully and honestly to all  
12 questions concerning present, past, and future earning capabilities  
13 and the location and nature of all property or financial assets. The  
14 offender is further required to bring all documents requested by the  
15 department.

16 ~~((6))~~ (7) After completing the investigation, the department  
17 shall make a report to the court on the amount of the monthly payment  
18 that the offender should be required to make towards a satisfied  
19 legal financial obligation.

20 ~~((7))~~ (8) (a) During the period of supervision, the department  
21 may make a recommendation to the court that the offender's monthly  
22 payment schedule be modified so as to reflect a change in financial  
23 circumstances. If the department sets the monthly payment amount, the  
24 department may modify the monthly payment amount without the matter  
25 being returned to the court. During the period of supervision, the  
26 department may require the offender to report to the department for  
27 the purposes of reviewing the appropriateness of the collection  
28 schedule for the legal financial obligation. During this reporting,  
29 the offender is required under oath to respond truthfully and  
30 honestly to all questions concerning earning capabilities and the  
31 location and nature of all property or financial assets. The offender  
32 shall bring all documents requested by the department in order to  
33 prepare the collection schedule.

34 (b) Subsequent to any period of supervision, or if the department  
35 is not authorized to supervise the offender in the community, the  
36 county clerk may make a recommendation to the court that the  
37 offender's monthly payment schedule be modified so as to reflect a  
38 change in financial circumstances. If the county clerk sets the  
39 monthly payment amount, or if the department set the monthly payment  
40 amount and the department has subsequently turned the collection of

1 the legal financial obligation over to the county clerk, the clerk  
2 may modify the monthly payment amount without the matter being  
3 returned to the court. During the period of repayment, the county  
4 clerk may require the offender to report to the clerk for the purpose  
5 of reviewing the appropriateness of the collection schedule for the  
6 legal financial obligation. During this reporting, the offender is  
7 required under oath to respond truthfully and honestly to all  
8 questions concerning earning capabilities and the location and nature  
9 of all property or financial assets. The offender shall bring all  
10 documents requested by the county clerk in order to prepare the  
11 collection schedule.

12 ~~((+8))~~ (9) After the judgment and sentence or payment order is  
13 entered, the department is authorized, for any period of supervision,  
14 to collect the legal financial obligation from the offender.  
15 Subsequent to any period of supervision or, if the department is not  
16 authorized to supervise the offender in the community, the county  
17 clerk is authorized to collect unpaid legal financial obligations  
18 from the offender. Any amount collected by the department shall be  
19 remitted daily to the county clerk for the purpose of disbursements.  
20 The department and the county clerks are authorized, but not  
21 required, to accept credit cards as payment for a legal financial  
22 obligation, and any costs incurred related to accepting credit card  
23 payments shall be the responsibility of the offender.

24 ~~((+9))~~ (10) The department or any obligee of the legal financial  
25 obligation may seek a mandatory wage assignment for the purposes of  
26 obtaining satisfaction for the legal financial obligation pursuant to  
27 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify  
28 the county clerk. The county clerks shall notify the department, or  
29 the administrative office of the courts, whichever is providing the  
30 monthly billing for the offender.

31 ~~((+10))~~ (11) The requirement that the offender pay a monthly sum  
32 towards a legal financial obligation constitutes a condition or  
33 requirement of a sentence and the offender is subject to the  
34 penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737,  
35 or 9.94A.740. If the court determines that the offender is homeless  
36 or a person who is mentally ill, as defined in RCW 71.24.025, failure  
37 to pay a legal financial obligation is not willful noncompliance and  
38 shall not subject the offender to penalties.

39 ~~((+11))~~ (12)(a) The administrative office of the courts shall  
40 mail individualized periodic billings to the address known by the

1 office for each offender with an unsatisfied legal financial  
2 obligation.

3 (b) The billing shall direct payments, other than outstanding  
4 cost of supervision assessments under RCW 9.94A.780, parole  
5 assessments under RCW 72.04A.120, and cost of probation assessments  
6 under RCW 9.95.214, to the county clerk, and cost of supervision,  
7 parole, or probation assessments to the department.

8 (c) The county clerk shall provide the administrative office of  
9 the courts with notice of payments by such offenders no less  
10 frequently than weekly.

11 (d) The county clerks, the administrative office of the courts,  
12 and the department shall maintain agreements to implement this  
13 subsection.

14 (~~(12)~~) (13) The department shall arrange for the collection of  
15 unpaid legal financial obligations during any period of supervision  
16 in the community through the county clerk. The department shall  
17 either collect unpaid legal financial obligations or arrange for  
18 collections through another entity if the clerk does not assume  
19 responsibility or is unable to continue to assume responsibility for  
20 collection pursuant to subsection (~~(4)~~) (5) of this section. The  
21 costs for collection services shall be paid by the offender.

22 (~~(13)~~) (14) The county clerk may access the records of the  
23 employment security department for the purposes of verifying  
24 employment or income, seeking any assignment of wages, or performing  
25 other duties necessary to the collection of an offender's legal  
26 financial obligations.

27 (~~(14)~~) (15) Nothing in this chapter makes the department, the  
28 state, the counties, or any state or county employees, agents, or  
29 other persons acting on their behalf liable under any circumstances  
30 for the payment of these legal financial obligations or for the acts  
31 of any offender who is no longer, or was not, subject to supervision  
32 by the department for a term of community custody, and who remains  
33 under the jurisdiction of the court for payment of legal financial  
34 obligations.

35 **Sec. 15.** RCW 9.94B.040 and 2002 c 175 s 8 are each amended to  
36 read as follows:

37 (1) If an offender violates any condition or requirement of a  
38 sentence, the court may modify its order of judgment and sentence and  
39 impose further punishment in accordance with this section.

1 (2) In cases where conditions from a second or later sentence of  
2 community supervision begin prior to the term of the second or later  
3 sentence, the court shall treat a violation of such conditions as a  
4 violation of the sentence of community supervision currently being  
5 served.

6 (3) If an offender fails to comply with any of the nonfinancial  
7 requirements or conditions of a sentence the following provisions  
8 apply:

9 (a)(i) Following the violation, if the offender and the  
10 department make a stipulated agreement, the department may impose  
11 sanctions such as work release, home detention with electronic  
12 monitoring, work crew, community restitution, inpatient treatment,  
13 daily reporting, curfew, educational or counseling sessions,  
14 supervision enhanced through electronic monitoring, jail time, or  
15 other sanctions available in the community.

16 (ii) Within seventy-two hours of signing the stipulated  
17 agreement, the department shall submit a report to the court and the  
18 prosecuting attorney outlining the violation or violations, and  
19 sanctions imposed. Within fifteen days of receipt of the report, if  
20 the court is not satisfied with the sanctions, the court may schedule  
21 a hearing and may modify the department's sanctions. If this occurs,  
22 the offender may withdraw from the stipulated agreement.

23 (iii) If the offender fails to comply with the sanction  
24 administratively imposed by the department, the court may take action  
25 regarding the original noncompliance. Offender failure to comply with  
26 the sanction administratively imposed by the department may be  
27 considered an additional violation;

28 (b) In the absence of a stipulated agreement, or where the court  
29 is not satisfied with the department's sanctions as provided in (a)  
30 of this subsection, the court, upon the motion of the state, or upon  
31 its own motion, shall require the offender to show cause why the  
32 offender should not be punished for the noncompliance. The court may  
33 issue a summons or a warrant of arrest for the offender's appearance;

34 (c) The state has the burden of showing noncompliance by a  
35 preponderance of the evidence. If the court finds that the violation  
36 has occurred, it may order the offender to be confined for a period  
37 not to exceed sixty days for each violation, and may (i) convert a  
38 term of partial confinement to total confinement, (ii) convert  
39 community restitution obligation to total or partial confinement, or  
40 (iii) ~~((convert monetary obligations, except restitution and the~~

1 ~~crime victim penalty assessment, to community restitution hours at~~  
2 ~~the rate of the state minimum wage as established in RCW 49.46.020~~  
3 ~~for each hour of community restitution, or (iv))~~ order one or more  
4 of the penalties authorized in (a)(i) of this subsection. Any time  
5 served in confinement awaiting a hearing on noncompliance shall be  
6 credited against any confinement order by the court;

7 (d) If the court finds that the violation was not willful, the  
8 court may modify its previous order regarding (~~payment of legal~~  
9 ~~financial obligations and regarding~~) community restitution  
10 obligations; and

11 (e) If the violation involves a failure to undergo or comply with  
12 mental status evaluation and/or outpatient mental health treatment,  
13 the community corrections officer shall consult with the treatment  
14 provider or proposed treatment provider. Enforcement of orders  
15 concerning outpatient mental health treatment must reflect the  
16 availability of treatment and must pursue the least restrictive means  
17 of promoting participation in treatment. If the offender's failure to  
18 receive care essential for health and safety presents a risk of  
19 serious physical harm or probable harmful consequences, the civil  
20 detention and commitment procedures of chapter 71.05 RCW shall be  
21 considered in preference to incarceration in a local or state  
22 correctional facility.

23 (4) If the violation involves failure to pay legal financial  
24 obligations, the following provisions apply:

25 (a) The department and the offender may enter into a stipulated  
26 agreement that the failure to pay was willful noncompliance,  
27 according to the provisions and requirements of subsection (3)(a) of  
28 this section;

29 (b) In the absence of a stipulated agreement, or where the court  
30 is not satisfied with the department's sanctions as provided in a  
31 stipulated agreement under (a) of this subsection, the court, upon  
32 the motion of the state, or upon its own motion, shall require the  
33 offender to show cause why the offender should not be punished for  
34 the noncompliance. The court may issue a summons or a warrant of  
35 arrest for the offender's appearance;

36 (c) The state has the burden of showing noncompliance by a  
37 preponderance of the evidence. The court may not sanction the  
38 offender for failure to pay legal financial obligations unless the  
39 court finds, after a hearing and on the record, that the failure to  
40 pay is willful. A failure to pay is willful if the offender has the

1 current ability to pay but refuses to do so. In determining whether  
2 the offender has the current ability to pay, the court shall inquire  
3 into and consider: (i) The offender's income and assets; (ii) the  
4 offender's basic living costs as defined by RCW 10.101.010 and other  
5 liabilities including child support and other legal financial  
6 obligations; and (iii) the offender's bona fide efforts to acquire  
7 additional resources. An offender who is indigent as defined by RCW  
8 10.101.010(3) (a) through (c) is presumed to lack the current ability  
9 to pay;

10 (d) If the court determines that the offender is homeless or a  
11 person who is mentally ill, as defined in RCW 71.24.025, failure to  
12 pay a legal financial obligation is not willful noncompliance and  
13 shall not subject the offender to penalties;

14 (e) If the court finds that the failure to pay is willful  
15 noncompliance, the court may order the offender to be confined for a  
16 period not to exceed sixty days for each violation or order one or  
17 more of the penalties authorized in subsection (3)(a)(i) of this  
18 section; and

19 (f) If the court finds that the violation was not willful, the  
20 court may, and if the court finds that the defendant is indigent as  
21 defined in RCW 10.101.010(3) (a) through (c), the court shall modify  
22 the terms of payment of the legal financial obligations, reduce or  
23 waive nonrestitution legal financial obligations, or with the  
24 defendant's consent convert nonrestitution legal financial  
25 obligations to community restitution hours at the rate of no less  
26 than the state minimum wage established in RCW 49.46.020 for each  
27 hour of community restitution. The crime victim penalty assessment  
28 under RCW 7.68.035 may not be reduced, waived, or converted to  
29 community restitution hours.

30 (5) The community corrections officer may obtain information from  
31 the offender's mental health treatment provider on the offender's  
32 status with respect to evaluation, application for services,  
33 registration for services, and compliance with the supervision plan,  
34 without the offender's consent, as described under RCW 71.05.630.

35 ~~((+5))~~ (6) An offender under community placement or community  
36 supervision who is civilly detained under chapter 71.05 RCW, and  
37 subsequently discharged or conditionally released to the community,  
38 shall be under the supervision of the department of corrections for  
39 the duration of his or her period of community placement or community  
40 supervision. During any period of inpatient mental health treatment

1 that falls within the period of community placement or community  
2 supervision, the inpatient treatment provider and the supervising  
3 community corrections officer shall notify each other about the  
4 offender's discharge, release, and legal status, and shall share  
5 other relevant information.

6 ~~((6))~~ (7) Nothing in this section prohibits the filing of  
7 escape charges if appropriate.

8 **Sec. 16.** RCW 3.62.085 and 2005 c 457 s 10 are each amended to  
9 read as follows:

10 Upon conviction or a plea of guilty in any court organized under  
11 this title or Title 35 RCW, a defendant in a criminal case is liable  
12 for a fee of forty-three dollars, except this fee shall not be  
13 imposed on a defendant who is indigent as defined in RCW  
14 10.101.010(3) (a) through (c). This fee shall be subject to division  
15 with the state under RCW 3.46.120(2), 3.50.100(2), 3.62.020(2),  
16 3.62.040(2), and 35.20.220(2).

17 **Sec. 17.** RCW 36.18.020 and 2015 c 265 s 28 are each amended to  
18 read as follows:

19 (1) Revenue collected under this section is subject to division  
20 with the state under RCW 36.18.025 and with the county or regional  
21 law library fund under RCW 27.24.070, except as provided in  
22 subsection (5) of this section.

23 (2) Clerks of superior courts shall collect the following fees  
24 for their official services:

25 (a) In addition to any other fee required by law, the party  
26 filing the first or initial document in any civil action, including,  
27 but not limited to an action for restitution, adoption, or change of  
28 name, and any party filing a counterclaim, cross-claim, or third-  
29 party claim in any such civil action, shall pay, at the time the  
30 document is filed, a fee of two hundred dollars except, in an  
31 unlawful detainer action under chapter 59.18 or 59.20 RCW for which  
32 the plaintiff shall pay a case initiating filing fee of forty-five  
33 dollars, or in proceedings filed under RCW 28A.225.030 alleging a  
34 violation of the compulsory attendance laws where the petitioner  
35 shall not pay a filing fee. The forty-five dollar filing fee under  
36 this subsection for an unlawful detainer action shall not include an  
37 order to show cause or any other order or judgment except a default  
38 order or default judgment in an unlawful detainer action.

1 (b) Any party, except a defendant in a criminal case, filing the  
2 first or initial document on an appeal from a court of limited  
3 jurisdiction or any party on any civil appeal, shall pay, when the  
4 document is filed, a fee of two hundred dollars.

5 (c) For filing of a petition for judicial review as required  
6 under RCW 34.05.514 a filing fee of two hundred dollars.

7 (d) For filing of a petition for unlawful harassment under RCW  
8 10.14.040 a filing fee of fifty-three dollars.

9 (e) For filing the notice of debt due for the compensation of a  
10 crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

11 (f) In probate proceedings, the party instituting such  
12 proceedings, shall pay at the time of filing the first document  
13 therein, a fee of two hundred dollars.

14 (g) For filing any petition to contest a will admitted to probate  
15 or a petition to admit a will which has been rejected, or a petition  
16 objecting to a written agreement or memorandum as provided in RCW  
17 11.96A.220, there shall be paid a fee of two hundred dollars.

18 (h) Upon conviction or plea of guilty, upon failure to prosecute  
19 an appeal from a court of limited jurisdiction as provided by law, or  
20 upon affirmance of a conviction by a court of limited jurisdiction,  
21 an adult defendant in a criminal case shall be liable for a fee of  
22 two hundred dollars, except this fee shall not be imposed on a  
23 defendant who is indigent as defined in RCW 10.101.010(3) (a) through  
24 (c).

25 (i) With the exception of demands for jury hereafter made and  
26 garnishments hereafter issued, civil actions and probate proceedings  
27 filed prior to midnight, July 1, 1972, shall be completed and  
28 governed by the fee schedule in effect as of January 1, 1972.  
29 However, no fee shall be assessed if an order of dismissal on the  
30 clerk's record be filed as provided by rule of the supreme court.

31 (3) No fee shall be collected when a petition for relinquishment  
32 of parental rights is filed pursuant to RCW 26.33.080 or for forms  
33 and instructional brochures provided under RCW 26.50.030.

34 (4) No fee shall be collected when an abstract of judgment is  
35 filed by the county clerk of another county for the purposes of  
36 collection of legal financial obligations.

37 (5)(a) Until July 1, 2017, in addition to the fees required to be  
38 collected under this section, clerks of the superior courts must  
39 collect surcharges as provided in this subsection (5) of which  
40 seventy-five percent must be remitted to the state treasurer for

1 deposit in the judicial stabilization trust account and twenty-five  
2 percent must be retained by the county.

3 (b) On filing fees required to be collected under subsection  
4 (2)(b) of this section, a surcharge of thirty dollars must be  
5 collected.

6 (c) On all filing fees required to be collected under this  
7 section, except for fees required under subsection (2)(b), (d), and  
8 (h) of this section, a surcharge of forty dollars must be collected.

9 **Sec. 18.** RCW 43.43.7541 and 2015 c 265 s 31 are each amended to  
10 read as follows:

11 Every sentence imposed for a crime specified in RCW 43.43.754  
12 must include a fee of one hundred dollars unless the state has  
13 previously collected the offender's DNA as a result of a prior  
14 conviction. The fee is a court-ordered legal financial obligation as  
15 defined in RCW 9.94A.030 and other applicable law. For a sentence  
16 imposed under chapter 9.94A RCW, the fee is payable by the offender  
17 after payment of all other legal financial obligations included in  
18 the sentence has been completed. For all other sentences, the fee is  
19 payable by the offender in the same manner as other assessments  
20 imposed. The clerk of the court shall transmit eighty percent of the  
21 fee collected to the state treasurer for deposit in the state DNA  
22 database account created under RCW 43.43.7532, and shall transmit  
23 twenty percent of the fee collected to the agency responsible for  
24 collection of a biological sample from the offender as required under  
25 RCW 43.43.754. This fee shall not be imposed on juvenile offenders if  
26 the state has previously collected the juvenile offender's DNA as a  
27 result of a prior conviction.

28 **Sec. 19.** RCW 7.68.035 and 2015 c 265 s 8 are each amended to  
29 read as follows:

30 (1)(a) When any person is found guilty in any superior court of  
31 having committed a crime, except as provided in subsection (2) of  
32 this section, there shall be imposed by the court upon such convicted  
33 person a penalty assessment. The assessment shall be in addition to  
34 any other penalty or fine imposed by law and shall be five hundred  
35 dollars for each case or cause of action that includes one or more  
36 convictions of a felony or gross misdemeanor and two hundred fifty  
37 dollars for any case or cause of action that includes convictions of  
38 only one or more misdemeanors.

1 (b) When any juvenile is adjudicated of an offense that is a most  
2 serious offense as defined in RCW 9.94A.030, or a sex offense under  
3 chapter 9A.44 RCW, there shall be imposed upon the juvenile offender  
4 a penalty assessment. The assessment shall be in addition to any  
5 other penalty or fine imposed by law and shall be one hundred dollars  
6 for each case or cause of action.

7 (c) When any juvenile is adjudicated of an offense which has a  
8 victim, and which is not a most serious offense as defined in RCW  
9 9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall  
10 order up to seven hours of community restitution, unless the court  
11 finds that such an order is not practicable for the offender. This  
12 community restitution must be imposed consecutively to any other  
13 community restitution the court imposes for the offense.

14 (2) The assessment imposed by subsection (1) of this section  
15 shall not apply to motor vehicle crimes defined in Title 46 RCW  
16 except those defined in the following sections: RCW 46.61.520,  
17 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504,  
18 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249,  
19 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010,  
20 46.44.180, 46.10.490(2), and 46.09.470(2).

21 (3) When any person accused of having committed a crime posts  
22 bail in superior court pursuant to the provisions of chapter 10.19  
23 RCW and such bail is forfeited, there shall be deducted from the  
24 proceeds of such forfeited bail a penalty assessment, in addition to  
25 any other penalty or fine imposed by law, equal to the assessment  
26 which would be applicable under subsection (1) of this section if the  
27 person had been convicted of the crime.

28 (4) Such penalty assessments shall be paid by the clerk of the  
29 superior court to the county treasurer (~~((who shall monthly transmit  
30 the money as provided in RCW 10.82.070))~~). Each county shall deposit  
31 (~~((fifty))~~) one hundred percent of the money it receives per case or  
32 cause of action under subsection (1) of this section (~~((and retains  
33 under RCW 10.82.070))~~), not less than one and seventy-five one-  
34 hundredths percent of the remaining money it retains under RCW  
35 10.82.070 and the money it retains under chapter 3.62 RCW, and all  
36 money it receives under subsection (7) of this section into a fund  
37 maintained exclusively for the support of comprehensive programs to  
38 encourage and facilitate testimony by the victims of crimes and  
39 witnesses to crimes. A program shall be considered "comprehensive"  
40 only after approval of the department upon application by the county

1 prosecuting attorney. The department shall approve as comprehensive  
2 only programs which:

3 (a) Provide comprehensive services to victims and witnesses of  
4 all types of crime with particular emphasis on serious crimes against  
5 persons and property. It is the intent of the legislature to make  
6 funds available only to programs which do not restrict services to  
7 victims or witnesses of a particular type or types of crime and that  
8 such funds supplement, not supplant, existing local funding levels;

9 (b) Are administered by the county prosecuting attorney either  
10 directly through the prosecuting attorney's office or by contract  
11 between the county and agencies providing services to victims of  
12 crime;

13 (c) Make a reasonable effort to inform the known victim or his or  
14 her surviving dependents of the existence of this chapter and the  
15 procedure for making application for benefits;

16 (d) Assist victims in the restitution and adjudication process;  
17 and

18 (e) Assist victims of violent crimes in the preparation and  
19 presentation of their claims to the department of labor and  
20 industries under this chapter.

21 Before a program in any county west of the Cascade mountains is  
22 submitted to the department for approval, it shall be submitted for  
23 review and comment to each city within the county with a population  
24 of more than one hundred fifty thousand. The department will consider  
25 if the county's proposed comprehensive plan meets the needs of crime  
26 victims in cases adjudicated in municipal, district or superior  
27 courts and of crime victims located within the city and county.

28 (5) Upon submission to the department of a letter of intent to  
29 adopt a comprehensive program, the prosecuting attorney shall retain  
30 the money deposited by the county under subsection (4) of this  
31 section until such time as the county prosecuting attorney has  
32 obtained approval of a program from the department. Approval of the  
33 comprehensive plan by the department must be obtained within one year  
34 of the date of the letter of intent to adopt a comprehensive program.  
35 The county prosecuting attorney shall not make any expenditures from  
36 the money deposited under subsection (4) of this section until  
37 approval of a comprehensive plan by the department. If a county  
38 prosecuting attorney has failed to obtain approval of a program from  
39 the department under subsection (4) of this section or failed to  
40 obtain approval of a comprehensive program within one year after

1 submission of a letter of intent under this section, the county  
2 treasurer shall monthly transmit one hundred percent of the money  
3 deposited by the county under subsection (4) of this section to the  
4 state treasurer for deposit in the state general fund.

5 (6) County prosecuting attorneys are responsible to make every  
6 reasonable effort to insure that the penalty assessments of this  
7 chapter are imposed and collected.

8 (7) Every city and town shall transmit monthly one and seventy-  
9 five one-hundredths percent of all money, other than money received  
10 for parking infractions, retained under RCW 3.50.100 and 35.20.220 to  
11 the county treasurer for deposit as provided in subsection (4) of  
12 this section.

13 NEW SECTION. **Sec. 20.** A new section is added to chapter 2.56  
14 RCW to read as follows:

15 (1) The administrative office of the courts shall conduct a study  
16 and report on the effectiveness of the reform measures of this act in  
17 encouraging offenders to pay their legal financial obligations. The  
18 report shall include the following information compared with  
19 historical legal financial obligation collection data: The amount and  
20 percentage of legal financial obligations that are paid, the  
21 percentage of offenders making payments towards legal financial  
22 obligations, the percentage of offenders who satisfy their legal  
23 financial obligations in full, the amount and percentage of  
24 restitution obligations paid to victims, and the percentage of  
25 victims who receive full restitution payments. The administrative  
26 office of the courts shall report preliminary findings of the study  
27 to the appropriate committees of the legislature by December 1, 2018,  
28 and a final report by December 1, 2021.

29 (2) This section expires July 1, 2022.

30 NEW SECTION. **Sec. 21.** Nothing in this act requires the courts  
31 to refund or reimburse amounts previously paid towards legal  
32 financial obligations or interest on legal financial obligations.

--- END ---

## **APPENDIX “B”**

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1783**

Chapter 269, Laws of 2018

65th Legislature  
2018 Regular Session

LEGAL FINANCIAL OBLIGATIONS

EFFECTIVE DATE: June 7, 2018

Passed by the House March 6, 2018  
Yeas 83 Nays 15

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate February 28, 2018  
Yeas 32 Nays 17

CYRUS HABIB

**President of the Senate**

Approved March 27, 2018 2:24 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1783** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

March 29, 2018

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1783

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AS AMENDED BY THE SENATE

Passed Legislature - 2018 Regular Session

State of Washington                      65th Legislature                      2017 Regular Session

By House Appropriations (originally sponsored by Representatives Holy, Goodman, Hansen, Hayes, Stokesbary, Senn, Orwall, Kagi, Appleton, Kilduff, Rodne, Jinkins, Taylor, Shea, Tharinger, Frame, Fitzgibbon, Bergquist, Fey, Macri, Ryu, Doglio, Pellicciotti, Peterson, Santos, Reeves, Kloba, Robinson, Stanford, Hudgins, McBride, Ormsby, and Pollet)

READ FIRST TIME 02/24/17.

1            AN ACT Relating to legal financial obligations; amending RCW  
2 10.82.090, 3.50.100, 3.62.040, 35.20.220, 10.01.160, 10.01.170,  
3 10.01.180, 10.46.190, 10.64.015, 9.92.070, 10.73.160, 9.94A.6333,  
4 9.94A.760, 9.94B.040, 3.62.085, 36.18.020, 43.43.7541, and 7.68.035;  
5 reenacting and amending RCW 3.62.020; and creating new sections.

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

7            **Sec. 1.** RCW 10.82.090 and 2015 c 265 s 23 are each amended to  
8 read as follows:

9            (1) Except as provided in subsection (2) of this section,  
10 (~~financial obligations~~) restitution imposed in a judgment shall  
11 bear interest from the date of the judgment until payment, at the  
12 rate applicable to civil judgments. As of the effective date of this  
13 section, no interest shall accrue on nonrestitution legal financial  
14 obligations. All nonrestitution interest retained by the court shall  
15 be split twenty-five percent to the state treasurer for deposit in  
16 the state general fund, twenty-five percent to the state treasurer  
17 for deposit in the judicial information system account as provided in  
18 RCW 2.68.020, twenty-five percent to the county current expense fund,  
19 and twenty-five percent to the county current expense fund to fund  
20 local courts.

1 (2) The court may, on motion by the offender, following the  
2 offender's release from total confinement, reduce or waive the  
3 interest on legal financial obligations levied as a result of a  
4 criminal conviction as follows:

5 (a) The court shall waive all interest on the portions of the  
6 legal financial obligations that are not restitution that accrued  
7 ~~((during the term of total confinement for the conviction giving rise  
8 to the financial obligations, provided the offender shows that the  
9 interest creates a hardship for the offender or his or her immediate  
10 family))~~ prior to the effective date of this section;

11 (b) The court may reduce interest on the restitution portion of  
12 the legal financial obligations only if the principal has been paid  
13 in full((+)

14 ~~(c) The court may otherwise reduce or waive the interest on the  
15 portions of the legal financial obligations that are not restitution  
16 if the offender shows that he or she has personally made a good faith  
17 effort to pay and that the interest accrual is causing a significant  
18 hardship. For purposes of this section, "good faith effort" means  
19 that the offender has either (i) paid the principal amount in full;  
20 or (ii) made at least fifteen monthly payments within an eighteen-  
21 month period, excluding any payments mandatorily deducted by the  
22 department of corrections;~~

23 ~~(d) For purposes of (a) through (c) of this subsection, the court  
24 may reduce or waive interest on legal financial obligations only))~~  
25 and as an incentive for the offender to meet his or her other legal  
26 financial obligations. The court may grant the motion, establish a  
27 payment schedule, and retain jurisdiction over the offender for  
28 purposes of reviewing and revising the reduction or waiver of  
29 interest.

30 (3) This section only applies to adult offenders.

31 **Sec. 2.** RCW 3.50.100 and 2012 c 136 s 3 are each amended to read  
32 as follows:

33 (1) Costs in civil and criminal actions may be imposed as  
34 provided in district court. All fees, costs, fines, forfeitures and  
35 other money imposed by any municipal court for the violation of any  
36 municipal or town ordinances shall be collected by the court clerk  
37 and, together with any other noninterest revenues received by the  
38 clerk, shall be deposited with the city or town treasurer as a part  
39 of the general fund of the city or town, or deposited in such other

1 fund of the city or town, or deposited in such other funds as may be  
2 designated by the laws of the state of Washington.

3 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
4 treasurer shall remit monthly thirty-two percent of the noninterest  
5 money received under this section, other than for parking  
6 infractions, and certain costs to the state treasurer. "Certain  
7 costs" as used in this subsection, means those costs awarded to  
8 prevailing parties in civil actions under RCW 4.84.010 or 36.18.040,  
9 or those costs awarded against convicted defendants in criminal  
10 actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other  
11 similar statutes if such costs are specifically designated as costs  
12 by the court and are awarded for the specific reimbursement of costs  
13 incurred by the state, county, city, or town in the prosecution of  
14 the case, including the fees of defense counsel. Money remitted under  
15 this subsection to the state treasurer shall be deposited in the  
16 state general fund.

17 (3) The balance of the noninterest money received under this  
18 section shall be retained by the city and deposited as provided by  
19 law.

20 (4) (a) Except as provided in (b) of this subsection, penalties,  
21 finer, ((bail forfeitures,)) fees, and costs may accrue interest at  
22 the rate of twelve percent per annum, upon assignment to a collection  
23 agency. Interest may accrue only while the case is in collection  
24 status.

25 (b) As of the effective date of this section, penalties, fines,  
26 bail forfeitures, fees, and costs imposed against a defendant in a  
27 criminal proceeding shall not accrue interest.

28 (5) Interest retained by the court on penalties, fines, bail  
29 forfeitures, fees, and costs shall be split twenty-five percent to  
30 the state treasurer for deposit in the state general fund, twenty-  
31 five percent to the state treasurer for deposit in the judicial  
32 information system account as provided in RCW 2.68.020, twenty-five  
33 percent to the city general fund, and twenty-five percent to the city  
34 general fund to fund local courts.

35 **Sec. 3.** RCW 3.62.020 and 2012 c 262 s 1, 2012 c 136 s 4, and  
36 2012 c 134 s 6 are each reenacted and amended to read as follows:

37 (1) Except as provided in subsection (4) of this section, all  
38 costs, fees, fines, forfeitures and penalties assessed and collected  
39 in whole or in part by district courts, except costs, fines,

1 forfeitures and penalties assessed and collected, in whole or in  
2 part, because of the violation of city ordinances, shall be remitted  
3 by the clerk of the district court to the county treasurer at least  
4 monthly, together with a financial statement as required by the state  
5 auditor, noting the information necessary for crediting of such funds  
6 as required by law.

7 (2) Except as provided in RCW 9A.88.120, 10.99.080, 7.84.100(4),  
8 and this section, the county treasurer shall remit thirty-two percent  
9 of the noninterest money received under subsection (1) of this  
10 section except certain costs to the state treasurer. "Certain costs"  
11 as used in this subsection, means those costs awarded to prevailing  
12 parties in civil actions under RCW 4.84.010 or 36.18.040, or those  
13 costs awarded against convicted defendants in criminal actions under  
14 RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if  
15 such costs are specifically designated as costs by the court and are  
16 awarded for the specific reimbursement of costs incurred by the state  
17 or county in the prosecution of the case, including the fees of  
18 defense counsel. With the exception of funds to be transferred to the  
19 judicial stabilization trust account under RCW 3.62.060(2), money  
20 remitted under this subsection to the state treasurer shall be  
21 deposited in the state general fund.

22 (3) The balance of the noninterest money received by the county  
23 treasurer under subsection (1) of this section shall be deposited in  
24 the county current expense fund. Funds deposited under this  
25 subsection that are attributable to the county's portion of a  
26 surcharge imposed under RCW 3.62.060(2) must be used to support local  
27 trial court and court-related functions.

28 (4) Except as provided in RCW 7.84.100(4), all money collected  
29 for county parking infractions shall be remitted by the clerk of the  
30 district court at least monthly, with the information required under  
31 subsection (1) of this section, to the county treasurer for deposit  
32 in the county current expense fund.

33 (5) (a) Except as provided in (b) of this subsection, penalties,  
34 finances, ((bail forfeitures,)) fees, and costs may accrue interest at  
35 the rate of twelve percent per annum, upon assignment to a collection  
36 agency. Interest may accrue only while the case is in collection  
37 status.

38 (b) As of the effective date of this section, penalties, fines,  
39 bail forfeitures, fees, and costs imposed against a defendant in a  
40 criminal proceeding shall not accrue interest.

1 (6) Interest retained by the court on penalties, fines, bail  
2 forfeitures, fees, and costs shall be split twenty-five percent to  
3 the state treasurer for deposit in the state general fund, twenty-  
4 five percent to the state treasurer for deposit in the judicial  
5 information system account as provided in RCW 2.68.020, twenty-five  
6 percent to the county current expense fund, and twenty-five percent  
7 to the county current expense fund to fund local courts.

8 **Sec. 4.** RCW 3.62.040 and 2012 c 136 s 5 are each amended to read  
9 as follows:

10 (1) Except as provided in subsection (4) of this section, all  
11 costs, fines, forfeitures and penalties assessed and collected, in  
12 whole or in part, by district courts because of violations of city  
13 ordinances shall be remitted by the clerk of the district court at  
14 least monthly directly to the treasurer of the city wherein the  
15 violation occurred.

16 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
17 treasurer shall remit monthly thirty-two percent of the noninterest  
18 money received under this section, other than for parking infractions  
19 and certain costs, to the state treasurer. "Certain costs" as used in  
20 this subsection, means those costs awarded to prevailing parties in  
21 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
22 against convicted defendants in criminal actions under RCW 10.01.160,  
23 10.46.190, or 36.18.040, or other similar statutes if such costs are  
24 specifically designated as costs by the court and are awarded for the  
25 specific reimbursement of costs incurred by the state, county, city,  
26 or town in the prosecution of the case, including the fees of defense  
27 counsel. Money remitted under this subsection to the state treasurer  
28 shall be deposited in the state general fund.

29 (3) The balance of the noninterest money received under this  
30 section shall be retained by the city and deposited as provided by  
31 law.

32 (4) All money collected for city parking infractions shall be  
33 remitted by the clerk of the district court at least monthly to the  
34 city treasurer for deposit in the city's general fund.

35 (5)(a) Except as provided in (b) of this subsection, penalties,  
36 fines, ((bail forfeitures,)) fees, and costs may accrue interest at  
37 the rate of twelve percent per annum, upon assignment to a collection  
38 agency. Interest may accrue only while the case is in collection  
39 status.

1 (b) As of the effective date of this section, penalties, fines,  
2 bail forfeitures, fees, and costs imposed against a defendant in a  
3 criminal proceeding shall not accrue interest.

4 (6) Interest retained by the court on penalties, fines, bail  
5 forfeitures, fees, and costs shall be split twenty-five percent to  
6 the state treasurer for deposit in the state general fund, twenty-  
7 five percent to the state treasurer for deposit in the judicial  
8 information system account as provided in RCW 2.68.020, twenty-five  
9 percent to the city general fund, and twenty-five percent to the city  
10 general fund to fund local courts.

11 **Sec. 5.** RCW 35.20.220 and 2012 c 136 s 7 are each amended to  
12 read as follows:

13 (1) The chief clerk, under the supervision and direction of the  
14 court administrator of the municipal court, shall have the custody  
15 and care of the books, papers and records of the court. The chief  
16 clerk or a deputy shall be present during the session of the court  
17 and has the power to swear all witnesses and jurors, administer oaths  
18 and affidavits, and take acknowledgments. The chief clerk shall keep  
19 the records of the court and shall issue all process under his or her  
20 hand and the seal of the court. The chief clerk shall do and perform  
21 all things and have the same powers pertaining to the office as the  
22 clerks of the superior courts have in their office. He or she shall  
23 receive all fines, penalties, and fees of every kind and keep a full,  
24 accurate, and detailed account of the same. The chief clerk shall on  
25 each day pay into the city treasury all money received for the city  
26 during the day previous, with a detailed account of the same, and  
27 taking the treasurer's receipt therefor.

28 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city  
29 treasurer shall remit monthly thirty-two percent of the noninterest  
30 money received under this section, other than for parking infractions  
31 and certain costs to the state treasurer. "Certain costs" as used in  
32 this subsection, means those costs awarded to prevailing parties in  
33 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded  
34 against convicted defendants in criminal actions under RCW 10.01.160,  
35 10.46.190, or 36.18.040, or other similar statutes if such costs are  
36 specifically designated as costs by the court and are awarded for the  
37 specific reimbursement of costs incurred by the state, county, city,  
38 or town in the prosecution of the case, including the fees of defense

1 counsel. Money remitted under this subsection to the state treasurer  
2 shall be deposited in the state general fund.

3 (3) The balance of the noninterest money received under this  
4 section shall be retained by the city and deposited as provided by  
5 law.

6 (4) (a) Except as provided in (b) of this subsection, penalties,  
7 finances, ((bail forfeitures,)) fees, and costs may accrue interest at  
8 the rate of twelve percent per annum, upon assignment to a collection  
9 agency. Interest may accrue only while the case is in collection  
10 status.

11 (b) As of the effective date of this section, penalties, fines,  
12 bail forfeitures, fees, and costs imposed against a defendant in a  
13 criminal proceeding shall not accrue interest.

14 (5) Interest retained by the court on penalties, fines, bail  
15 forfeitures, fees, and costs shall be split twenty-five percent to  
16 the state treasurer for deposit in the state general fund, twenty-  
17 five percent to the state treasurer for deposit in the judicial  
18 information system account as provided in RCW 2.68.020, twenty-five  
19 percent to the city general fund, and twenty-five percent to the city  
20 general fund to fund local courts.

21 **Sec. 6.** RCW 10.01.160 and 2015 3rd sp.s. c 35 s 1 are each  
22 amended to read as follows:

23 (1) Except as provided in subsection (3) of this section, the  
24 court may require a defendant to pay costs. Costs may be imposed only  
25 upon a convicted defendant, except for costs imposed upon a  
26 defendant's entry into a deferred prosecution program, costs imposed  
27 upon a defendant for pretrial supervision, or costs imposed upon a  
28 defendant for preparing and serving a warrant for failure to appear.

29 (2) Costs shall be limited to expenses specially incurred by the  
30 state in prosecuting the defendant or in administering the deferred  
31 prosecution program under chapter 10.05 RCW or pretrial supervision.  
32 They cannot include expenses inherent in providing a constitutionally  
33 guaranteed jury trial or expenditures in connection with the  
34 maintenance and operation of government agencies that must be made by  
35 the public irrespective of specific violations of law. Expenses  
36 incurred for serving of warrants for failure to appear and jury fees  
37 under RCW 10.46.190 may be included in costs the court may require a  
38 defendant to pay. Costs for administering a deferred prosecution may  
39 not exceed two hundred fifty dollars. Costs for administering a

1 pretrial supervision other than a pretrial electronic alcohol  
2 monitoring program, drug monitoring program, or 24/7 sobriety program  
3 may not exceed one hundred fifty dollars. Costs for preparing and  
4 serving a warrant for failure to appear may not exceed one hundred  
5 dollars. Costs of incarceration imposed on a defendant convicted of a  
6 misdemeanor or a gross misdemeanor may not exceed the actual cost of  
7 incarceration. In no case may the court require the offender to pay  
8 more than one hundred dollars per day for the cost of incarceration.  
9 Payment of other court-ordered financial obligations, including all  
10 legal financial obligations and costs of supervision take precedence  
11 over the payment of the cost of incarceration ordered by the court.  
12 All funds received from defendants for the cost of incarceration in  
13 the county or city jail must be remitted for criminal justice  
14 purposes to the county or city that is responsible for the  
15 defendant's jail costs. Costs imposed constitute a judgment against a  
16 defendant and survive a dismissal of the underlying action against  
17 the defendant. However, if the defendant is acquitted on the  
18 underlying action, the costs for preparing and serving a warrant for  
19 failure to appear do not survive the acquittal, and the judgment that  
20 such costs would otherwise constitute shall be vacated.

21 (3) The court shall not order a defendant to pay costs (~~unless~~)  
22 if the defendant (~~is or will be able to pay them~~) at the time of  
23 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
24 (c). In determining the amount and method of payment of costs for  
25 defendants who are not indigent as defined in RCW 10.101.010(3) (a)  
26 through (c), the court shall take account of the financial resources  
27 of the defendant and the nature of the burden that payment of costs  
28 will impose.

29 (4) A defendant who has been ordered to pay costs and who is not  
30 in contumacious default in the payment thereof may at any time after  
31 release from total confinement petition the sentencing court for  
32 remission of the payment of costs or of any unpaid portion thereof.  
33 If it appears to the satisfaction of the court that payment of the  
34 amount due will impose manifest hardship on the defendant or the  
35 defendant's immediate family, the court may remit all or part of the  
36 amount due in costs, (~~or~~) modify the method of payment under RCW  
37 10.01.170, or convert the unpaid costs to community restitution  
38 hours, if the jurisdiction operates a community restitution program,  
39 at the rate of no less than the state minimum wage established in RCW  
40 49.46.020 for each hour of community restitution. Manifest hardship

1 exists where the defendant is indigent as defined in RCW  
2 10.101.010(3) (a) through (c).

3 (5) Except for direct costs relating to evaluating and reporting  
4 to the court, prosecutor, or defense counsel regarding a defendant's  
5 competency to stand trial as provided in RCW 10.77.060, this section  
6 shall not apply to costs related to medical or mental health  
7 treatment or services a defendant receives while in custody of the  
8 secretary of the department of social and health services or other  
9 governmental units. This section shall not prevent the secretary of  
10 the department of social and health services or other governmental  
11 units from imposing liability and seeking reimbursement from a  
12 defendant committed to an appropriate facility as provided in RCW  
13 10.77.084 while criminal proceedings are stayed. This section shall  
14 also not prevent governmental units from imposing liability on  
15 defendants for costs related to providing medical or mental health  
16 treatment while the defendant is in the governmental unit's custody.  
17 Medical or mental health treatment and services a defendant receives  
18 at a state hospital or other facility are not a cost of prosecution  
19 and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter  
20 43.20B RCW, and any other applicable statute.

21 **Sec. 7.** RCW 10.01.170 and 1975-'76 2nd ex.s. c 96 s 2 are each  
22 amended to read as follows:

23 (1) When a defendant is sentenced to pay ((a)) fines, penalties,  
24 assessments, fees, restitution, or costs, the court may grant  
25 permission for payment to be made within a specified period of time  
26 or in specified installments. If the court finds that the defendant  
27 is indigent as defined in RCW 10.101.010(3) (a) through (c), the  
28 court shall grant permission for payment to be made within a  
29 specified period of time or in specified installments. If no such  
30 permission is included in the sentence the fine or costs shall be  
31 payable forthwith.

32 (2) An offender's monthly payment shall be applied in the  
33 following order of priority until satisfied:

34 (a) First, proportionally to restitution to victims that have not  
35 been fully compensated from other sources;

36 (b) Second, proportionally to restitution to insurance or other  
37 sources with respect to a loss that has provided compensation to  
38 victims;

39 (c) Third, proportionally to crime victims' assessments; and

1\* (d) Fourth, proportionally to costs, fines, and other assessments  
2 required by law.

3 **Sec. 8.** RCW 10.01.180 and 2010 c 8 s 1006 are each amended to  
4 read as follows:

5 (1) A defendant sentenced to pay ~~((a))~~ any fine, penalty,  
6 assessment, fee, or costs who willfully defaults in the payment  
7 thereof or of any installment is in contempt of court as provided in  
8 chapter 7.21 RCW. The court may issue a warrant of arrest for his or  
9 her appearance.

10 (2) When ~~((a))~~ any fine, penalty, assessment, fee, or assessment  
11 of costs is imposed on a corporation or unincorporated association,  
12 it is the duty of the person authorized to make disbursement from the  
13 assets of the corporation or association to pay the ~~((fine or costs))~~  
14 obligation from those assets, and his or her failure to do so may be  
15 held to be contempt.

16 (3)(a) The court shall not sanction a defendant for contempt  
17 based on failure to pay fines, penalties, assessments, fees, or costs  
18 unless the court finds, after a hearing and on the record, that the  
19 failure to pay is willful. A failure to pay is willful if the  
20 defendant has the current ability to pay but refuses to do so.

21 (b) In determining whether the defendant has the current ability  
22 to pay, the court shall inquire into and consider: (i) The  
23 defendant's income and assets; (ii) the defendant's basic living  
24 costs as defined by RCW 10.101.010 and other liabilities including  
25 child support and other legal financial obligations; and (iii) the  
26 defendant's bona fide efforts to acquire additional resources. A  
27 defendant who is indigent as defined by RCW 10.101.010(3) (a) through  
28 (c) is presumed to lack the current ability to pay.

29 (c) If the court determines that the defendant is homeless or a  
30 person who is mentally ill, as defined in RCW 71.24.025, failure to  
31 pay a legal financial obligation is not willful contempt and shall  
32 not subject the defendant to penalties.

33 (4) If a term of imprisonment for contempt for nonpayment of  
34 ~~((a))~~ any fine, penalty, assessment, fee, or costs is ordered, the  
35 term of imprisonment shall be set forth in the commitment order, and  
36 shall not exceed one day for each twenty-five dollars of the ~~((fine~~  
37 ~~or costs))~~ amount ordered, thirty days if the ~~((fine or assessment))~~  
38 amount ordered of costs was imposed upon conviction of a violation or  
39 misdemeanor, or one year in any other case, whichever is the shorter

1 period. A person committed for nonpayment of ((a)) any fine, penalty,  
2 assessment, fee, or costs shall be given credit toward payment for  
3 each day of imprisonment at the rate specified in the commitment  
4 order.

5 ((4)) (5) If it appears to the satisfaction of the court that  
6 the default in the payment of ((a)) any fine, penalty, assessment,  
7 fee, or costs is not willful contempt, the court may, and if the  
8 defendant is indigent as defined in RCW 10.101.010(3) (a) through  
9 (c), the court shall enter an order: (a) Allowing the defendant  
10 additional time for payment((7)); (b) reducing the amount thereof or  
11 of each installment ((e)); (c) revoking the fine, penalty,  
12 assessment, fee, or costs or the unpaid portion thereof in whole or  
13 in part; or (d) converting the unpaid fine, penalty, assessment, fee,  
14 or costs to community restitution hours, if the jurisdiction operates  
15 a community restitution program, at the rate of no less than the  
16 state minimum wage established in RCW 49.46.020 for each hour of  
17 community restitution. The crime victim penalty assessment under RCW  
18 7.68.035 may not be reduced, revoked, or converted to community  
19 restitution hours.

20 ((5)) (6) A default in the payment of ((a)) any fine, penalty,  
21 assessment, fee, or costs or any installment thereof may be collected  
22 by any means authorized by law for the enforcement of a judgment. The  
23 levy of execution for the collection of ((a)) any fine, penalty,  
24 assessment, fee, or costs shall not discharge a defendant committed  
25 to imprisonment for contempt until the amount ((of the fine or  
26 costs)) has actually been collected.

27 **Sec. 9.** RCW 10.46.190 and 2005 c 457 s 12 are each amended to  
28 read as follows:

29 Every person convicted of a crime or held to bail to keep the  
30 peace ((shall)) may be liable to all the costs of the proceedings  
31 against him or her, including, when tried by a jury in the superior  
32 court or before a committing magistrate, a jury fee as provided for  
33 in civil actions for which judgment shall be rendered and collected.  
34 The court shall not order a defendant to pay costs, as described in  
35 RCW 10.01.160, if the court finds that the person at the time of  
36 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
37 (c). The jury fee, when collected for a case tried by the superior  
38 court, shall be paid to the clerk and applied as the jury fee in  
39 civil cases is applied.

1\*       **Sec. 10.** RCW 10.64.015 and Code 1881 s 1104 are each amended to  
2 read as follows:

3       When the defendant is found guilty, the court shall render  
4 judgment accordingly, and the defendant (~~shall~~) may be liable for  
5 all costs, unless the court or jury trying the cause expressly find  
6 otherwise. The court shall not order a defendant to pay costs, as  
7 described in RCW 10.01.160, if the court finds that the person at the  
8 time of sentencing is indigent as defined in RCW 10.101.010(3) (a)  
9 through (c).

10       **Sec. 11.** RCW 9.92.070 and 1987 c 3 s 4 are each amended to read  
11 as follows:

12       Hereafter whenever any judge of any superior court or a district  
13 or municipal judge shall sentence any person to pay any fines,  
14 penalties, assessments, fees, and costs, the judge may, in the  
15 judge's discretion, provide that such fines, penalties, assessments,  
16 fees, and costs may be paid in certain designated installments, or  
17 within certain designated period or periods(~~+~~~~and~~). If the court  
18 finds that the defendant is indigent as defined in RCW 10.101.010(3)  
19 (a) through (c), the court shall allow for payment in certain  
20 designated installments or within certain designated periods. If such  
21 fines, penalties, assessments, fees, and costs shall be paid by the  
22 defendant in accordance with such order no commitment or imprisonment  
23 of the defendant shall be made for failure to pay such fine or costs.  
24 PROVIDED, that the provisions of this section shall not apply to any  
25 sentence given for the violation of any of the liquor laws of this  
26 state.

27       **Sec. 12.** RCW 10.73.160 and 2015 c 265 s 22 are each amended to  
28 read as follows:

29       (1) The court of appeals, supreme court, and superior courts may  
30 require an adult offender convicted of an offense to pay appellate  
31 costs.

32       (2) Appellate costs are limited to expenses specifically incurred  
33 by the state in prosecuting or defending an appeal or collateral  
34 attack from a criminal conviction. Appellate costs shall not include  
35 expenditures to maintain and operate government agencies that must be  
36 made irrespective of specific violations of the law. Expenses  
37 incurred for producing a verbatim report of proceedings and clerk's

1 papers may be included in costs the court may require a convicted  
2 defendant to pay.

3 (3) Costs, including recoupment of fees for court-appointed  
4 counsel, shall be requested in accordance with the procedures  
5 contained in Title 14 of the rules of appellate procedure and in  
6 Title 9 of the rules for appeal of decisions of courts of limited  
7 jurisdiction. An award of costs shall become part of the trial court  
8 judgment and sentence.

9 (4) A defendant who has been sentenced to pay costs and who is  
10 not in contumacious default in the payment may at any time after  
11 release from total confinement petition the court that sentenced the  
12 defendant or juvenile offender for remission of the payment of costs  
13 or of any unpaid portion. If it appears to the satisfaction of the  
14 sentencing court that payment of the amount due will impose manifest  
15 hardship on the defendant or the defendant's immediate family, the  
16 sentencing court may remit all or part of the amount due in costs,  
17 (~~or~~) modify the method of payment under RCW 10.01.170, or convert  
18 the unpaid costs to community restitution hours, if the jurisdiction  
19 operates a community restitution program, at the rate of no less than  
20 the state minimum wage established in RCW 49.46.020 for each hour of  
21 community restitution. Manifest hardship exists where the defendant  
22 or juvenile offender is indigent as defined in RCW 10.101.010(3) (a)  
23 through (c).

24 (5) The parents or another person legally obligated to support a  
25 juvenile offender who has been ordered to pay appellate costs and who  
26 is not in contumacious default in the payment may at any time  
27 petition the court that sentenced the juvenile offender for remission  
28 of the payment of costs or of any unpaid portion. If it appears to  
29 the satisfaction of the sentencing court that payment of the amount  
30 due will impose manifest hardship on the parents or another person  
31 legally obligated to support a juvenile offender or on their  
32 immediate families, the sentencing court may remit all or part of the  
33 amount due in costs, or may modify the method of payment.

34 **Sec. 13.** RCW 9.94A.6333 and 2008 c 231 s 19 are each amended to  
35 read as follows:

36 (1) If an offender violates any condition or requirement of a  
37 sentence, and the offender is not being supervised by the department,  
38 the court may modify its order of judgment and sentence and impose  
39 further punishment in accordance with this section.

1\* (2) If an offender fails to comply with any of the nonfinancial  
2 conditions or requirements of a sentence the following provisions  
3 apply:

4 (a) The court, upon the motion of the state, or upon its own  
5 motion, shall require the offender to show cause why the offender  
6 should not be punished for the noncompliance. The court may issue a  
7 summons or a warrant of arrest for the offender's appearance;

8 (b) The state has the burden of showing noncompliance by a  
9 preponderance of the evidence;

10 (c) If the court finds that a violation has been proved, it may  
11 impose the sanctions specified in RCW 9.94A.633(1). Alternatively,  
12 the court may:

13 (i) Convert a term of partial confinement to total confinement;

14 or

15 (ii) Convert community restitution obligation to total or partial  
16 confinement; (~~or~~

17 ~~(iii) Convert monetary obligations, except restitution and the~~  
18 ~~crime victim penalty assessment, to community restitution hours at~~  
19 ~~the rate of the state minimum wage as established in RCW 49.46.020~~  
20 ~~for each hour of community restitution;))~~

21 (d) If the court finds that the violation was not willful, the  
22 court may modify its previous order regarding (~~payment of legal~~  
23 ~~financial obligations and regarding~~) community restitution  
24 obligations; and

25 (e) If the violation involves a failure to undergo or comply with  
26 a mental health status evaluation and/or outpatient mental health  
27 treatment, the court shall seek a recommendation from the treatment  
28 provider or proposed treatment provider. Enforcement of orders  
29 concerning outpatient mental health treatment must reflect the  
30 availability of treatment and must pursue the least restrictive means  
31 of promoting participation in treatment. If the offender's failure to  
32 receive care essential for health and safety presents a risk of  
33 serious physical harm or probable harmful consequences, the civil  
34 detention and commitment procedures of chapter 71.05 RCW shall be  
35 considered in preference to incarceration in a local or state  
36 correctional facility.

37 (3) If an offender fails to pay legal financial obligations as a  
38 requirement of a sentence the following provisions apply:

39 (a) The court, upon the motion of the state, or upon its own  
40 motion, shall require the offender to show cause why the offender

1 should not be punished for the noncompliance. The court may issue a  
2 summons or a warrant of arrest for the offender's appearance;

3 (b) The state has the burden of showing noncompliance by a  
4 preponderance of the evidence;

5 (c) The court may not sanction the offender for failure to pay  
6 legal financial obligations unless the court finds, after a hearing  
7 and on the record, that the failure to pay is willful. A failure to  
8 pay is willful if the offender has the current ability to pay but  
9 refuses to do so. In determining whether the offender has the current  
10 ability to pay, the court shall inquire into and consider: (i) The  
11 offender's income and assets; (ii) the offender's basic living costs  
12 as defined by RCW 10.101.010 and other liabilities including child  
13 support and other legal financial obligations; and (iii) the  
14 offender's bona fide efforts to acquire additional resources. An  
15 offender who is indigent as defined by RCW 10.101.010(3) (a) through  
16 (c) is presumed to lack the current ability to pay;

17 (d) If the court determines that the offender is homeless or a  
18 person who is mentally ill, as defined in RCW 71.24.025, failure to  
19 pay a legal financial obligation is not willful noncompliance and  
20 shall not subject the offender to penalties;

21 (e) If the court finds that a failure to pay is willful  
22 noncompliance, it may impose the sanctions specified in RCW  
23 9.94A.633(1); and

24 (f) If the court finds that the violation was not willful, the  
25 court may, and if the court finds that the defendant is indigent as  
26 defined in RCW 10.101.010(3) (a) through (c), the court shall modify  
27 the terms of payment of the legal financial obligations, reduce or  
28 wave nonrestitution legal financial obligations, or convert  
29 nonrestitution legal financial obligations to community restitution  
30 hours, if the jurisdiction operates a community restitution program,  
31 at the rate of no less than the state minimum wage established in RCW  
32 49.46.020 for each hour of community restitution. The crime victim  
33 penalty assessment under RCW 7.68.035 may not be reduced, waived, or  
34 converted to community restitution hours.

35 (4) Any time served in confinement awaiting a hearing on  
36 noncompliance shall be credited against any confinement ordered by  
37 the court.

38 ~~((4))~~ (5) Nothing in this section prohibits the filing of  
39 escape charges if appropriate.

1       **Sec. 14.** RCW 9.94A.760 and 2011 c 106 s 3 are each amended to  
2 read as follows:

3       (1) Whenever a person is convicted in superior court, the court  
4 may order the payment of a legal financial obligation as part of the  
5 sentence. The court may not order an offender to pay costs as  
6 described in RCW 10.01.160 if the court finds that the offender at  
7 the time of sentencing is indigent as defined in RCW 10.101.010(3)  
8 (a) through (c). An offender being indigent as defined in RCW  
9 10.101.010(3) (a) through (c) is not grounds for failing to impose  
10 restitution or the crime victim penalty assessment under RCW  
11 7.68.035. The court must on either the judgment and sentence or on a  
12 subsequent order to pay, designate the total amount of a legal  
13 financial obligation and segregate this amount among the separate  
14 assessments made for restitution, costs, fines, and other assessments  
15 required by law. On the same order, the court is also to set a sum  
16 that the offender is required to pay on a monthly basis towards  
17 satisfying the legal financial obligation. If the court fails to set  
18 the offender monthly payment amount, the department shall set the  
19 amount if the department has active supervision of the offender,  
20 otherwise the county clerk shall set the amount.

21       (2) Upon receipt of ~~((an offender's monthly))~~ each payment~~((~~  
22 ~~restitution shall be paid prior to any payments of other monetary~~  
23 ~~obligations. After restitution is satisfied))~~ made by or on behalf of  
24 an offender, the county clerk shall distribute the payment  
25 ~~((proportionally among all other fines, costs, and assessments~~  
26 ~~imposed, unless otherwise ordered by the court))~~ in the following  
27 order of priority until satisfied:

28       (a) First, proportionally to restitution to victims that have not  
29 been fully compensated from other sources;

30       (b) Second, proportionally to restitution to insurance or other  
31 sources with respect to a loss that has provided compensation to  
32 victims;

33       (c) Third, proportionally to crime victims' assessments; and

34       (d) Fourth, proportionally to costs, fines, and other assessments  
35 required by law.

36       ~~((+2))~~ (3) If the court determines that the offender, at the  
37 time of sentencing, has the means to pay for the cost of  
38 incarceration, the court may require the offender to pay for the cost  
39 of incarceration ~~((at))~~. The court shall not order the offender to  
40 pay the cost of incarceration if the court finds that the offender at

1 the time of sentencing is indigent as defined in RCW 10.101.010(3)  
2 (a) through (c). Costs of incarceration ordered by the court shall  
3 not exceed a rate of fifty dollars per day of incarceration, if  
4 incarcerated in a prison, or the ((court may require the offender to  
5 pay the)) actual cost of incarceration per day of incarceration, if  
6 incarcerated in a county jail. In no case may the court require the  
7 offender to pay more than one hundred dollars per day for the cost of  
8 incarceration. ((Payment of other court ordered financial  
9 obligations, including all legal financial obligations and costs of  
10 supervision shall take precedence over the payment of the cost of  
11 incarceration ordered by the court.)) All funds recovered from  
12 offenders for the cost of incarceration in the county jail shall be  
13 remitted to the county and the costs of incarceration in a prison  
14 shall be remitted to the department.

15 ~~((3))~~ (4) The court may add to the judgment and sentence or  
16 subsequent order to pay a statement that a notice of payroll  
17 deduction is to be issued immediately. If the court chooses not to  
18 order the immediate issuance of a notice of payroll deduction at  
19 sentencing, the court shall add to the judgment and sentence or  
20 subsequent order to pay a statement that a notice of payroll  
21 deduction may be issued or other income-withholding action may be  
22 taken, without further notice to the offender if a monthly court-  
23 ordered legal financial obligation payment is not paid when due, and  
24 an amount equal to or greater than the amount payable for one month  
25 is owed.

26 If a judgment and sentence or subsequent order to pay does not  
27 include the statement that a notice of payroll deduction may be  
28 issued or other income-withholding action may be taken if a monthly  
29 legal financial obligation payment is past due, the department or the  
30 county clerk may serve a notice on the offender stating such  
31 requirements and authorizations. Service shall be by personal service  
32 or any form of mail requiring a return receipt.

33 ~~((4))~~ (5) Independent of the department or the county clerk,  
34 the party or entity to whom the legal financial obligation is owed  
35 shall have the authority to use any other remedies available to the  
36 party or entity to collect the legal financial obligation. These  
37 remedies include enforcement in the same manner as a judgment in a  
38 civil action by the party or entity to whom the legal financial  
39 obligation is owed. Restitution collected through civil enforcement  
40 must be paid through the registry of the court and must be

1 distributed proportionately according to each victim's loss when  
2 there is more than one victim. The judgment and sentence shall  
3 identify the party or entity to whom restitution is owed so that the  
4 state, party, or entity may enforce the judgment. If restitution is  
5 ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of  
6 rape of a child or a victim's child born from the rape, the  
7 Washington state child support registry shall be identified as the  
8 party to whom payments must be made. Restitution obligations arising  
9 from the rape of a child in the first, second, or third degree that  
10 result in the pregnancy of the victim may be enforced for the time  
11 periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other  
12 legal financial obligations for an offense committed prior to July 1,  
13 2000, may be enforced at any time during the ten-year period  
14 following the offender's release from total confinement or within ten  
15 years of entry of the judgment and sentence, whichever period ends  
16 later. Prior to the expiration of the initial ten-year period, the  
17 superior court may extend the criminal judgment an additional ten  
18 years for payment of legal financial obligations including crime  
19 victims' assessments. All other legal financial obligations for an  
20 offense committed on or after July 1, 2000, may be enforced at any  
21 time the offender remains under the court's jurisdiction. For an  
22 offense committed on or after July 1, 2000, the court shall retain  
23 jurisdiction over the offender, for purposes of the offender's  
24 compliance with payment of the legal financial obligations, until the  
25 obligation is completely satisfied, regardless of the statutory  
26 maximum for the crime. The department may only supervise the  
27 offender's compliance with payment of the legal financial obligations  
28 during any period in which the department is authorized to supervise  
29 the offender in the community under RCW 9.94A.728, 9.94A.501, or in  
30 which the offender is confined in a state correctional institution or  
31 a correctional facility pursuant to a transfer agreement with the  
32 department, and the department shall supervise the offender's  
33 compliance during any such period. The department is not responsible  
34 for supervision of the offender during any subsequent period of time  
35 the offender remains under the court's jurisdiction. The county clerk  
36 is authorized to collect unpaid legal financial obligations at any  
37 time the offender remains under the jurisdiction of the court for  
38 purposes of his or her legal financial obligations.

39 ((+5)) (6) In order to assist the court in setting a monthly sum  
40 that the offender must pay during the period of supervision, the

1 offender is required to report to the department for purposes of  
2 preparing a recommendation to the court. When reporting, the offender  
3 is required, under oath, to respond truthfully and honestly to all  
4 questions concerning present, past, and future earning capabilities  
5 and the location and nature of all property or financial assets. The  
6 offender is further required to bring all documents requested by the  
7 department.

8 ((+6+)) (7) After completing the investigation, the department  
9 shall make a report to the court on the amount of the monthly payment  
10 that the offender should be required to make towards a satisfied  
11 legal financial obligation.

12 ((+7+)) (8) (a) During the period of supervision, the department  
13 may make a recommendation to the court that the offender's monthly  
14 payment schedule be modified so as to reflect a change in financial  
15 circumstances. If the department sets the monthly payment amount, the  
16 department may modify the monthly payment amount without the matter  
17 being returned to the court. During the period of supervision, the  
18 department may require the offender to report to the department for  
19 the purposes of reviewing the appropriateness of the collection  
20 schedule for the legal financial obligation. During this reporting,  
21 the offender is required under oath to respond truthfully and  
22 honestly to all questions concerning earning capabilities and the  
23 location and nature of all property or financial assets. The offender  
24 shall bring all documents requested by the department in order to  
25 prepare the collection schedule.

26 (b) Subsequent to any period of supervision, or if the department  
27 is not authorized to supervise the offender in the community, the  
28 county clerk may make a recommendation to the court that the  
29 offender's monthly payment schedule be modified so as to reflect a  
30 change in financial circumstances. If the county clerk sets the  
31 monthly payment amount, or if the department set the monthly payment  
32 amount and the department has subsequently turned the collection of  
33 the legal financial obligation over to the county clerk, the clerk  
34 may modify the monthly payment amount without the matter being  
35 returned to the court. During the period of repayment, the county  
36 clerk may require the offender to report to the clerk for the purpose  
37 of reviewing the appropriateness of the collection schedule for the  
38 legal financial obligation. During this reporting, the offender is  
39 required under oath to respond truthfully and honestly to all  
40 questions concerning earning capabilities and the location and nature

1 of all property or financial assets. The offender shall bring all  
2 documents requested by the county clerk in order to prepare the  
3 collection schedule.

4 ~~((+8+))~~ (9) After the judgment and sentence or payment order is  
5 entered, the department is authorized, for any period of supervision,  
6 to collect the legal financial obligation from the offender.  
7 Subsequent to any period of supervision or, if the department is not  
8 authorized to supervise the offender in the community, the county  
9 clerk is authorized to collect unpaid legal financial obligations  
10 from the offender. Any amount collected by the department shall be  
11 remitted daily to the county clerk for the purpose of disbursements.  
12 The department and the county clerks are authorized, but not  
13 required, to accept credit cards as payment for a legal financial  
14 obligation, and any costs incurred related to accepting credit card  
15 payments shall be the responsibility of the offender.

16 ~~((+9+))~~ (10) The department or any obligee of the legal financial  
17 obligation may seek a mandatory wage assignment for the purposes of  
18 obtaining satisfaction for the legal financial obligation pursuant to  
19 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify  
20 the county clerk. The county clerks shall notify the department, or  
21 the administrative office of the courts, whichever is providing the  
22 monthly billing for the offender.

23 ~~((+10+))~~ (11) The requirement that the offender pay a monthly sum  
24 towards a legal financial obligation constitutes a condition or  
25 requirement of a sentence and the offender is subject to the  
26 penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737,  
27 or 9.94A.740. If the court determines that the offender is homeless  
28 or a person who is mentally ill, as defined in RCW 71.24.025, failure  
29 to pay a legal financial obligation is not willful noncompliance and  
30 shall not subject the offender to penalties.

31 ~~((+11+))~~ (12)(a) The administrative office of the courts shall  
32 mail individualized periodic billings to the address known by the  
33 office for each offender with an unsatisfied legal financial  
34 obligation.

35 (b) The billing shall direct payments, other than outstanding  
36 cost of supervision assessments under RCW 9.94A.780, parole  
37 assessments under RCW 72.04A.120, and cost of probation assessments  
38 under RCW 9.95.214, to the county clerk, and cost of supervision,  
39 parole, or probation assessments to the department.

1 (c) The county clerk shall provide the administrative office of  
2 the courts with notice of payments by such offenders no less  
3 frequently than weekly.

4 (d) The county clerks, the administrative office of the courts,  
5 and the department shall maintain agreements to implement this  
6 subsection.

7 (~~(12)~~) (13) The department shall arrange for the collection of  
8 unpaid legal financial obligations during any period of supervision  
9 in the community through the county clerk. The department shall  
10 either collect unpaid legal financial obligations or arrange for  
11 collections through another entity if the clerk does not assume  
12 responsibility or is unable to continue to assume responsibility for  
13 collection pursuant to subsection (~~(4)~~) (5) of this section. The  
14 costs for collection services shall be paid by the offender.

15 (~~(13)~~) (14) The county clerk may access the records of the  
16 employment security department for the purposes of verifying  
17 employment or income, seeking any assignment of wages, or performing  
18 other duties necessary to the collection of an offender's legal  
19 financial obligations.

20 (~~(14)~~) (15) Nothing in this chapter makes the department, the  
21 state, the counties, or any state or county employees, agents, or  
22 other persons acting on their behalf liable under any circumstances  
23 for the payment of these legal financial obligations or for the acts  
24 of any offender who is no longer, or was not, subject to supervision  
25 by the department for a term of community custody, and who remains  
26 under the jurisdiction of the court for payment of legal financial  
27 obligations.

28 **Sec. 15.** RCW 9.94B.040 and 2002 c 175 s 8 are each amended to  
29 read as follows:

30 (1) If an offender violates any condition or requirement of a  
31 sentence, the court may modify its order of judgment and sentence and  
32 impose further punishment in accordance with this section.

33 (2) In cases where conditions from a second or later sentence of  
34 community supervision begin prior to the term of the second or later  
35 sentence, the court shall treat a violation of such conditions as a  
36 violation of the sentence of community supervision currently being  
37 served.

1 (3) If an offender fails to comply with any of the nonfinancial  
2 requirements or conditions of a sentence the following provisions  
3 apply:

4 (a)(i) Following the violation, if the offender and the  
5 department make a stipulated agreement, the department may impose  
6 sanctions such as work release, home detention with electronic  
7 monitoring, work crew, community restitution, inpatient treatment,  
8 daily reporting, curfew, educational or counseling sessions,  
9 supervision enhanced through electronic monitoring, jail time, or  
10 other sanctions available in the community.

11 (ii) Within seventy-two hours of signing the stipulated  
12 agreement, the department shall submit a report to the court and the  
13 prosecuting attorney outlining the violation or violations, and  
14 sanctions imposed. Within fifteen days of receipt of the report, if  
15 the court is not satisfied with the sanctions, the court may schedule  
16 a hearing and may modify the department's sanctions. If this occurs,  
17 the offender may withdraw from the stipulated agreement.

18 (iii) If the offender fails to comply with the sanction  
19 administratively imposed by the department, the court may take action  
20 regarding the original noncompliance. Offender failure to comply with  
21 the sanction administratively imposed by the department may be  
22 considered an additional violation;

23 (b) In the absence of a stipulated agreement, or where the court  
24 is not satisfied with the department's sanctions as provided in (a)  
25 of this subsection, the court, upon the motion of the state, or upon  
26 its own motion, shall require the offender to show cause why the  
27 offender should not be punished for the noncompliance. The court may  
28 issue a summons or a warrant of arrest for the offender's appearance;

29 (c) The state has the burden of showing noncompliance by a  
30 preponderance of the evidence. If the court finds that the violation  
31 has occurred, it may order the offender to be confined for a period  
32 not to exceed sixty days for each violation, and may (i) convert a  
33 term of partial confinement to total confinement, (ii) convert  
34 community restitution obligation to total or partial confinement, or  
35 ~~(iii) ((convert monetary obligations, except restitution and the~~  
36 ~~crime victim penalty assessment, to community restitution hours at~~  
37 ~~the rate of the state minimum wage as established in RCW 49.46.020~~  
38 ~~for each hour of community restitution, or (iv))~~) order one or more  
39 of the penalties authorized in (a)(i) of this subsection. Any time

1 served in confinement awaiting a hearing on noncompliance shall be  
2 credited against any confinement order by the court;

3 (d) If the court finds that the violation was not willful, the  
4 court may modify its previous order regarding (~~payment of legal~~  
5 ~~financial obligations and regarding~~) community restitution  
6 obligations; and

7 (e) If the violation involves a failure to undergo or comply with  
8 mental status evaluation and/or outpatient mental health treatment,  
9 the community corrections officer shall consult with the treatment  
10 provider or proposed treatment provider. Enforcement of orders  
11 concerning outpatient mental health treatment must reflect the  
12 availability of treatment and must pursue the least restrictive means  
13 of promoting participation in treatment. If the offender's failure to  
14 receive care essential for health and safety presents a risk of  
15 serious physical harm or probable harmful consequences, the civil  
16 detention and commitment procedures of chapter 71.05 RCW shall be  
17 considered in preference to incarceration in a local or state  
18 correctional facility.

19 (4) If the violation involves failure to pay legal financial  
20 obligations, the following provisions apply:

21 (a) The department and the offender may enter into a stipulated  
22 agreement that the failure to pay was willful noncompliance,  
23 according to the provisions and requirements of subsection (3)(a) of  
24 this section;

25 (b) In the absence of a stipulated agreement, or where the court  
26 is not satisfied with the department's sanctions as provided in a  
27 stipulated agreement under (a) of this subsection, the court, upon  
28 the motion of the state, or upon its own motion, shall require the  
29 offender to show cause why the offender should not be punished for  
30 the noncompliance. The court may issue a summons or a warrant of  
31 arrest for the offender's appearance;

32 (c) The state has the burden of showing noncompliance by a  
33 preponderance of the evidence. The court may not sanction the  
34 offender for failure to pay legal financial obligations unless the  
35 court finds, after a hearing and on the record, that the failure to  
36 pay is willful. A failure to pay is willful if the offender has the  
37 current ability to pay but refuses to do so. In determining whether  
38 the offender has the current ability to pay, the court shall inquire  
39 into and consider: (i) The offender's income and assets; (ii) the  
40 offender's basic living costs as defined by RCW 10.101.010 and other

1 liabilities including child support and other legal financial  
2 obligations; and (iii) the offender's bona fide efforts to acquire  
3 additional resources. An offender who is indigent as defined by RCW  
4 10.101.010(3) (a) through (c) is presumed to lack the current ability  
5 to pay;

6 (d) If the court determines that the offender is homeless or a  
7 person who is mentally ill, as defined in RCW 71.24.025, failure to  
8 pay a legal financial obligation is not willful noncompliance and  
9 shall not subject the offender to penalties;

10 (e) If the court finds that the failure to pay is willful  
11 noncompliance, the court may order the offender to be confined for a  
12 period not to exceed sixty days for each violation or order one or  
13 more of the penalties authorized in subsection (3)(a)(i) of this  
14 section; and

15 (f) If the court finds that the violation was not willful, the  
16 court may, and if the court finds that the defendant is indigent as  
17 defined in RCW 10.101.010(3) (a) through (c), the court shall modify  
18 the terms of payment of the legal financial obligations, reduce or  
19 waive nonrestitution legal financial obligations, or convert  
20 nonrestitution legal financial obligations to community restitution  
21 hours, if the jurisdiction operates a community restitution program,  
22 at the rate of no less than the state minimum wage established in RCW  
23 49.46.020 for each hour of community restitution. The crime victim  
24 penalty assessment under RCW 7.68.035 may not be reduced, waived, or  
25 converted to community restitution hours.

26 (5) The community corrections officer may obtain information from  
27 the offender's mental health treatment provider on the offender's  
28 status with respect to evaluation, application for services,  
29 registration for services, and compliance with the supervision plan,  
30 without the offender's consent, as described under RCW 71.05.630.

31 ((+5+)) (6) An offender under community placement or community  
32 supervision who is civilly detained under chapter 71.05 RCW, and  
33 subsequently discharged or conditionally released to the community,  
34 shall be under the supervision of the department of corrections for  
35 the duration of his or her period of community placement or community  
36 supervision. During any period of inpatient mental health treatment  
37 that falls within the period of community placement or community  
38 supervision, the inpatient treatment provider and the supervising  
39 community corrections officer shall notify each other about the

1 offender's discharge, release, and legal status, and shall share  
2 other relevant information.

3 ~~((6))~~ (7) Nothing in this section prohibits the filing of  
4 escape charges if appropriate.

5 **Sec. 16.** RCW 3.62.085 and 2005 c 457 s 10 are each amended to  
6 read as follows:

7 Upon conviction or a plea of guilty in any court organized under  
8 this title or Title 35 RCW, a defendant in a criminal case is liable  
9 for a fee of forty-three dollars, except this fee shall not be  
10 imposed on a defendant who is indigent as defined in RCW  
11 10.101.010(3) (a) through (c). This fee shall be subject to division  
12 with the state under RCW 3.46.120(2), 3.50.100(2), 3.62.020(2),  
13 3.62.040(2), and 35.20.220(2).

14 **Sec. 17.** RCW 36.18.020 and 2017 3rd sp.s. c 2 s 3 are each  
15 amended to read as follows:

16 (1) Revenue collected under this section is subject to division  
17 with the state under RCW 36.18.025 and with the county or regional  
18 law library fund under RCW 27.24.070, except as provided in  
19 subsection (5) of this section.

20 (2) Clerks of superior courts shall collect the following fees  
21 for their official services:

22 (a) In addition to any other fee required by law, the party  
23 filing the first or initial document in any civil action, including,  
24 but not limited to an action for restitution, adoption, or change of  
25 name, and any party filing a counterclaim, cross-claim, or third-  
26 party claim in any such civil action, shall pay, at the time the  
27 document is filed, a fee of two hundred dollars except, in an  
28 unlawful detainer action under chapter 59.18 or 59.20 RCW for which  
29 the plaintiff shall pay a case initiating filing fee of forty-five  
30 dollars, or in proceedings filed under RCW 28A.225.030 alleging a  
31 violation of the compulsory attendance laws where the petitioner  
32 shall not pay a filing fee. The forty-five dollar filing fee under  
33 this subsection for an unlawful detainer action shall not include an  
34 order to show cause or any other order or judgment except a default  
35 order or default judgment in an unlawful detainer action.

36 (b) Any party, except a defendant in a criminal case, filing the  
37 first or initial document on an appeal from a court of limited

1 jurisdiction or any party on any civil appeal, shall pay, when the  
2 document is filed, a fee of two hundred dollars.

3 (c) For filing of a petition for judicial review as required  
4 under RCW 34.05.514 a filing fee of two hundred dollars.

5 (d) For filing of a petition for unlawful harassment under RCW  
6 10.14.040 a filing fee of fifty-three dollars.

7 (e) For filing the notice of debt due for the compensation of a  
8 crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

9 (f) In probate proceedings, the party instituting such  
10 proceedings, shall pay at the time of filing the first document  
11 therein, a fee of two hundred dollars.

12 (g) For filing any petition to contest a will admitted to probate  
13 or a petition to admit a will which has been rejected, or a petition  
14 objecting to a written agreement or memorandum as provided in RCW  
15 11.96A.220, there shall be paid a fee of two hundred dollars.

16 (h) Upon conviction or plea of guilty, upon failure to prosecute  
17 an appeal from a court of limited jurisdiction as provided by law, or  
18 upon affirmance of a conviction by a court of limited jurisdiction,  
19 an adult defendant in a criminal case shall be liable for a fee of  
20 two hundred dollars, except this fee shall not be imposed on a  
21 defendant who is indigent as defined in RCW 10.101.010(3) (a) through  
22 (c).

23 (i) With the exception of demands for jury hereafter made and  
24 garnishments hereafter issued, civil actions and probate proceedings  
25 filed prior to midnight, July 1, 1972, shall be completed and  
26 governed by the fee schedule in effect as of January 1, 1972.  
27 However, no fee shall be assessed if an order of dismissal on the  
28 clerk's record be filed as provided by rule of the supreme court.

29 (3) No fee shall be collected when a petition for relinquishment  
30 of parental rights is filed pursuant to RCW 26.33.080 or for forms  
31 and instructional brochures provided under RCW 26.50.030.

32 (4) No fee shall be collected when an abstract of judgment is  
33 filed by the county clerk of another county for the purposes of  
34 collection of legal financial obligations.

35 (5)(a) Until July 1, 2021, in addition to the fees required to be  
36 collected under this section, clerks of the superior courts must  
37 collect surcharges as provided in this subsection (5) of which  
38 seventy-five percent must be remitted to the state treasurer for  
39 deposit in the judicial stabilization trust account and twenty-five  
40 percent must be retained by the county.

1 (b) On filing fees required to be collected under subsection  
2 (2)(b) of this section, a surcharge of thirty dollars must be  
3 collected.

4 (c) On all filing fees required to be collected under this  
5 section, except for fees required under subsection (2)(b), (d), and  
6 (h) of this section, a surcharge of forty dollars must be collected.

7 **Sec. 18.** RCW 43.43.7541 and 2015 c 265 s 31 are each amended to  
8 read as follows:

9 Every sentence imposed for a crime specified in RCW 43.43.754  
10 must include a fee of one hundred dollars unless the state has  
11 previously collected the offender's DNA as a result of a prior  
12 conviction. The fee is a court-ordered legal financial obligation as  
13 defined in RCW 9.94A.030 and other applicable law. For a sentence  
14 imposed under chapter 9.94A RCW, the fee is payable by the offender  
15 after payment of all other legal financial obligations included in  
16 the sentence has been completed. For all other sentences, the fee is  
17 payable by the offender in the same manner as other assessments  
18 imposed. The clerk of the court shall transmit eighty percent of the  
19 fee collected to the state treasurer for deposit in the state DNA  
20 database account created under RCW 43.43.7532, and shall transmit  
21 twenty percent of the fee collected to the agency responsible for  
22 collection of a biological sample from the offender as required under  
23 RCW 43.43.754. This fee shall not be imposed on juvenile offenders if  
24 the state has previously collected the juvenile offender's DNA as a  
25 result of a prior conviction.

26 **Sec. 19.** RCW 7.68.035 and 2015 c 265 s 8 are each amended to  
27 read as follows:

28 (1)(a) When any person is found guilty in any superior court of  
29 having committed a crime, except as provided in subsection (2) of  
30 this section, there shall be imposed by the court upon such convicted  
31 person a penalty assessment. The assessment shall be in addition to  
32 any other penalty or fine imposed by law and shall be five hundred  
33 dollars for each case or cause of action that includes one or more  
34 convictions of a felony or gross misdemeanor and two hundred fifty  
35 dollars for any case or cause of action that includes convictions of  
36 only one or more misdemeanors.

37 (b) When any juvenile is adjudicated of an offense that is a most  
38 serious offense as defined in RCW 9.94A.030, or a sex offense under

1 chapter 9A.44 RCW, there shall be imposed upon the juvenile offender  
2 a penalty assessment. The assessment shall be in addition to any  
3 other penalty or fine imposed by law and shall be one hundred dollars  
4 for each case or cause of action.

5 (c) When any juvenile is adjudicated of an offense which has a  
6 victim, and which is not a most serious offense as defined in RCW  
7 9.94A.030 or a sex offense under chapter 9A.44 RCW, the court shall  
8 order up to seven hours of community restitution, unless the court  
9 finds that such an order is not practicable for the offender. This  
10 community restitution must be imposed consecutively to any other  
11 community restitution the court imposes for the offense.

12 (2) The assessment imposed by subsection (1) of this section  
13 shall not apply to motor vehicle crimes defined in Title 46 RCW  
14 except those defined in the following sections: RCW 46.61.520,  
15 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504,  
16 46.52.101, 46.20.410, 46.52.020, 46.10.495, 46.09.480, 46.61.5249,  
17 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010,  
18 46.44.180, 46.10.490(2), and 46.09.470(2).

19 (3) When any person accused of having committed a crime posts  
20 bail in superior court pursuant to the provisions of chapter 10.19  
21 RCW and such bail is forfeited, there shall be deducted from the  
22 proceeds of such forfeited bail a penalty assessment, in addition to  
23 any other penalty or fine imposed by law, equal to the assessment  
24 which would be applicable under subsection (1) of this section if the  
25 person had been convicted of the crime.

26 (4) Such penalty assessments shall be paid by the clerk of the  
27 superior court to the county treasurer (~~who shall monthly transmit~~  
28 ~~the money as provided in RCW 10.82.070~~). Each county shall deposit  
29 ~~((fifty))~~ one hundred percent of the money it receives per case or  
30 cause of action under subsection (1) of this section (~~and retains~~  
31 ~~under RCW 10.82.070~~), not less than one and seventy-five one-  
32 hundredths percent of the remaining money it retains under RCW  
33 10.82.070 and the money it retains under chapter 3.62 RCW, and all  
34 money it receives under subsection (7) of this section into a fund  
35 maintained exclusively for the support of comprehensive programs to  
36 encourage and facilitate testimony by the victims of crimes and  
37 witnesses to crimes. A program shall be considered "comprehensive"  
38 only after approval of the department upon application by the county  
39 prosecuting attorney. The department shall approve as comprehensive  
40 only programs which:

1 (a) Provide comprehensive services to victims and witnesses of  
2 all types of crime with particular emphasis on serious crimes against  
3 persons and property. It is the intent of the legislature to make  
4 funds available only to programs which do not restrict services to  
5 victims or witnesses of a particular type or types of crime and that  
6 such funds supplement, not supplant, existing local funding levels;

7 (b) Are administered by the county prosecuting attorney either  
8 directly through the prosecuting attorney's office or by contract  
9 between the county and agencies providing services to victims of  
10 crime;

11 (c) Make a reasonable effort to inform the known victim or his or  
12 her surviving dependents of the existence of this chapter and the  
13 procedure for making application for benefits;

14 (d) Assist victims in the restitution and adjudication process;  
15 and

16 (e) Assist victims of violent crimes in the preparation and  
17 presentation of their claims to the department of labor and  
18 industries under this chapter.

19 Before a program in any county west of the Cascade mountains is  
20 submitted to the department for approval, it shall be submitted for  
21 review and comment to each city within the county with a population  
22 of more than one hundred fifty thousand. The department will consider  
23 if the county's proposed comprehensive plan meets the needs of crime  
24 victims in cases adjudicated in municipal, district or superior  
25 courts and of crime victims located within the city and county.

26 (5) Upon submission to the department of a letter of intent to  
27 adopt a comprehensive program, the prosecuting attorney shall retain  
28 the money deposited by the county under subsection (4) of this  
29 section until such time as the county prosecuting attorney has  
30 obtained approval of a program from the department. Approval of the  
31 comprehensive plan by the department must be obtained within one year  
32 of the date of the letter of intent to adopt a comprehensive program.  
33 The county prosecuting attorney shall not make any expenditures from  
34 the money deposited under subsection (4) of this section until  
35 approval of a comprehensive plan by the department. If a county  
36 prosecuting attorney has failed to obtain approval of a program from  
37 the department under subsection (4) of this section or failed to  
38 obtain approval of a comprehensive program within one year after  
39 submission of a letter of intent under this section, the county  
40 treasurer shall monthly transmit one hundred percent of the money

1 deposited by the county under subsection (4) of this section to the  
2 state treasurer for deposit in the state general fund.

3 (6) County prosecuting attorneys are responsible to make every  
4 reasonable effort to insure that the penalty assessments of this  
5 chapter are imposed and collected.

6 (7) Every city and town shall transmit monthly one and seventy-  
7 five one-hundredths percent of all money, other than money received  
8 for parking infractions, retained under RCW 3.50.100 and 35.20.220 to  
9 the county treasurer for deposit as provided in subsection (4) of  
10 this section.

11 NEW SECTION. **Sec. 20.** Nothing in this act requires the courts  
12 to refund or reimburse amounts previously paid towards legal  
13 financial obligations or interest on legal financial obligations.

14 NEW SECTION. **Sec. 21.** If specific funding for the purposes of  
15 this act, referencing this act by bill or chapter number, is not  
16 provided by June 30, 2018, in the omnibus appropriations act, this  
17 act is null and void.

Passed by the House March 6, 2018.

Passed by the Senate February 28, 2018.

Approved by the Governor March 27, 2018.

Filed in Office of Secretary of State March 29, 2018.

--- END ---

**PIERCE COUNTY PROSECUTING ATTORNEY**

**November 05, 2018 - 11:19 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 51878-3  
**Appellate Court Case Title:** State of Washington, Respondent v. Christopher Sikes, Appellant  
**Superior Court Case Number:** 15-1-00571-7

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