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No. 103710-4

THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,
Respondent,

v.

D.G.A.,
Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR GRANT COUNTY

MEMORANDUM OF AMICI CURIAE
IN SUPPORT OF PETITION FOR REVIEW

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I. INTRODUCTION

Washington is one of the few states in the country with mandatory restitution for juveniles, a criminal penalty that most harshly burdens poor children of color. But the legislature did not intend restitution to be a lifelong penalty for poor children who are unable to pay it—by law, restitution orders expire and become civil judgments that do not pose a legal barrier to sealing a juvenile record.

The Court of Appeals ignored the legislative intent and plain language of the restitution statute's limit on the duration of a restitution order to effectively deny record sealing to the children most in need of the economic and social opportunities it affords. This Court should accept review.

II. IDENTITY AND INTEREST OF AMICI

The identity and interest of amici curiae are set forth in the accompanying Motion for Leave to File an Amici Curiae Memo.

III. ISSUE PRESENTED

The legislature did not intend to burden a child for life with restitution they cannot pay. A juvenile court's restitution order is voided when the child turns 18, and any money owed becomes a civil judgment. This means that when, as in D.G.A.'s case, the child turns 18, there is no longer "restitution owing to the individual victim named in the restitution order" that would prohibit sealing a juvenile record under RCW 13.50.260(1)(f).

The Court of Appeals ignored the limited duration of a juvenile restitution order to mistakenly prohibit sealing a juvenile record, contrary to the plain language of the statute and related provisions. This is a matter of public interest necessitating review because it effectively denies juvenile sealing to poor children who are unable to pay restitution.

IV. STATEMENT OF THE CASE

Amici adopt the statement of facts in the petition for review.

V. ARGUMENT

The Court of Appeals’ misinterpretation of the restitution and sealing statutes wrongly denies poor children relief from the stigma of conviction. This is a matter of public interest that necessitates this Court’s review.

1. Washington’s juvenile restitution statutes are harsh, and the imposition of restitution is geographically inconsistent and disproportionately harmful to poor children.

Restitution is “criminal punishment” for a defendant’s conduct. *Pasquantino v. United States*, 544 U.S. 349, 365, 125 S. Ct. 1766, 161 L. Ed. 2d 619 (2005). While Washington has been a leader in the nation for significant juvenile legal system reforms, it has some of the harshest restitution statutes for children in the country. Juvenile restitution is disproportionately imposed throughout the state and creates an undue burden on poor children and communities of color.

In Washington, juvenile courts have historically “impose[d] the highest average restitution amounts on Native American and Black youth, who are most likely to come from households with the lowest median incomes.” Washington State

Partnership Council on Juvenile Justice, *State-Funded Community Compensation Program Report and Recommendations to the Governor and Legislature*, 18-19 (Oct. 2024).¹ Black juvenile defendants have average legal financial obligations (LFO) amounts over twice the lowest average amount for cases with Asian/Pacific Islander defendants. Administrative Office of the Courts, *Legal Financial Obligations in Washington's Courts: Final Report to the Legislature*, 104 (2024).²

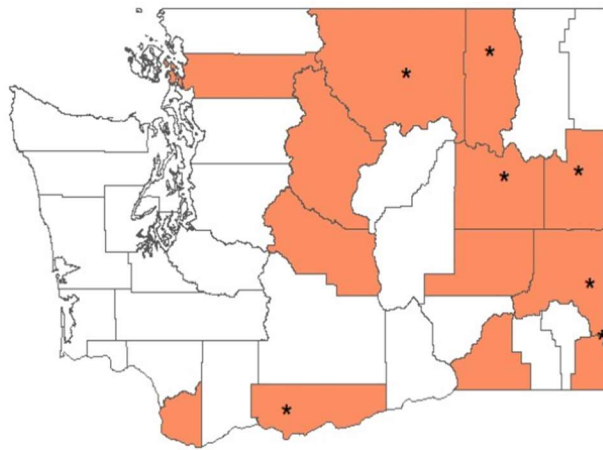
Restitution is also disparately imposed depending on where a child lives. Eighty-six percent of restitution to insurance companies is imposed by only two courts in Washington, while 58 percent of restitution to individuals comes from just three courts. *Id.* at 8. Indeed, “Juvenile Courts have the largest

¹ https://www.dcyf.wa.gov/sites/default/files/pdf/PCJJ_CommunityCompReport.pdf

² <https://www.courts.wa.gov/subsite/wscrr/docs/LFO%20WSCCR%20Report%20-%20Published.pdf>

between-court variation in imposition patterns” for LFOs of any courts in Washington. *Id.* at 33. This map shows the most “restitution-seeking” courts in the State are in the east, south, and predominantly rural counties:

Restitution-seeking courts are the most common type of Juvenile Courts in Washington.



Id. at 100.3

Restitution is a criminal penalty that reduces a poor child's opportunities and exacerbates the financial and emotional stress of families who live in poverty. Tori Sullivan LaVoie, *Footing*

³ This map references “patterns of restitution imposition for the juvenile property charges most likely to generate restitution: felony theft/fraud/larceny, burglary except 1st degree, and misdemeanor destruction.” *Id.*

the Bill for Juvenile Justice: The Impacts of Legal Financial Obligations on Washington Youth, 19 Seattle J. for Soc. Just. 2, 579 (2021) at 593.⁴ When restitution is a barrier to sealing a juvenile record, this creates “real and objectively observable negative consequences, including denial of housing, employment, and education opportunities.” *State v. S.J.C.*, 183 Wn.2d 408, 432, 352 P.3d 749 (2015). “Research strongly suggests that fines and fees actually increase recidivism, pushing kids deeper into crime in order to avoid debt collectors.” Claudia Rowe, *Charging Juvenile Offenders Fines They Cannot Pay Is Not Justice*, The Seattle Times (Feb. 6, 2023).⁵

The inability of poor children to repay restitution is made apparent by the outstanding restitution debt owed in Washington. “Of restitution owed to natural persons, the highest average

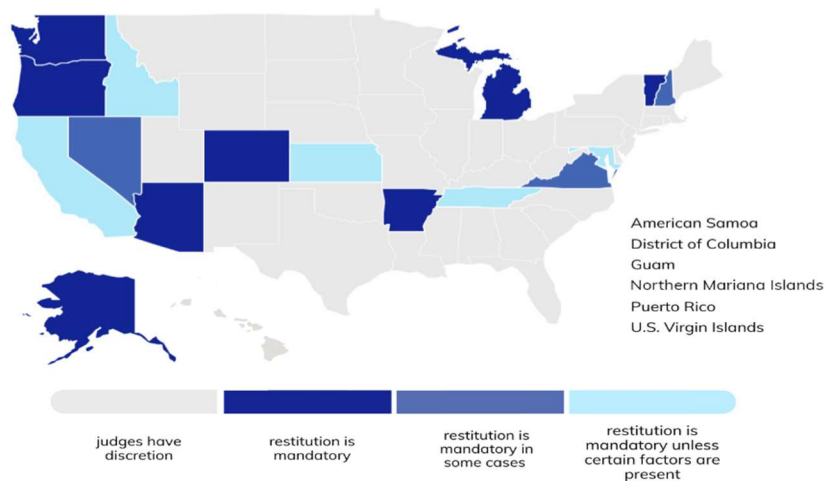
⁴ <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=2034&context=sjsj>

⁵ <https://www.seattletimes.com/opinion/charging-juvenile-offenders-fines-they-cant-pay-is-not-justice/>

balances are owed by youth who live in the most socioeconomically disadvantaged neighborhoods.” Washington State Partnership Council on Juvenile Justice, *State-Funded Community Compensation Program Report and Recommendations to the Governor and Legislature*, 19 (Oct. 2024). Courts often send unpaid LFOs to collection agencies that profit off of court involved youths’ debts. LaVoie, *supra*, at 593. These debts can create further legal and financial problems because collection agencies can, and do, file lawsuits over unpaid debt. *Id.*

Besides being unequally imposed, Washington’s restitution statutes are some of the harshest in the country. It is one of only nine states that makes juvenile restitution mandatory.

MAP 1: MANDATORY RESTITUTION



Lindsay E. Smith et al., *Reimagining Restitution: New Approaches to Support Youth and Communities*, Juvenile Law Center, 8 (2022);⁶ RCW 13.40.190(1)(a).

Washington is also only one of nine states that allows courts to make children joint and severally liable for the payment of restitution. RCW 13.40.190(1)(f); Juvenile Law Center, *supra*, at 4. Joint and several liability makes a child financially accountable for another person's conduct regardless of their

⁶ <https://debtorsprison.jlc.org/documents/JLC-Reimagining-Restitution.pdf>

involvement in the crime, which is counter to the juvenile court's claimed intent to address the individual circumstances and rehabilitative needs of each young person. *Id.* at 9; *see also* RCW 13.40.010(1) (Juvenile criminal system must respond to the needs of youthful offenders).

Additionally, courts cannot consider a child's ability to pay restitution, except to make the child work it off in the community. RCW 13.40.190(1)(d).

Courts must also order children to repay restitution to the crime victims' compensation fund (CVCF), a robustly funded program with an annual budget of over \$23 million.⁷ RCW 13.40.190(2). Restitution to the CVCF cannot be converted to community service. *See Id.* The CVCF repays victims based on its own set of expansive criteria, not even requiring a conviction. *See, e.g.,* RCW 7.68.020(5) (A "criminal act" is defined as "an

⁷ <https://lni.wa.gov/claims/crime-victim-claims/lawsuits-settlements-and-insurance/how-we-re-funded>

act committed or attempted in this state which is . . . *[p]unishable* as a felony or gross misdemeanor under the laws of this state.”). This means that courts are required to make children play a role in financing a state and federally subsidized program, even where the victim has already been compensated.

While the legislature has tried to provide some safeguards in the juvenile restitution statutes, they offer limited protection for many children. For instance, courts may impose community restitution in lieu of payment if the victim agrees to it. RCW 13.40.192(1)(d). But this forces poor children to work, foregoing educational and social opportunities, where the parent of a child of means would simply write a check to satisfy this part of the sentence. A recent study showed that for 25 percent of teenagers who dropped out of high school, their financial responsibilities took precedence over school, while another 20 percent reported that they were unable to work and attend school simultaneously. LaVoie, *supra*, at 587.

The restitution statutes also allow courts to waive restitution for insurance companies. RCW 13.40.190(1)(g). But this is at the court's discretion, which has been shown to vary wildly by jurisdiction. Administrative Office of the Courts, *supra*, at 8. And while the "restitution portion of the dispositional order may be modified as to amount, terms, and conditions at any time," this too is entirely at the court's discretion, and requires the child have access to the courts to make such a request. RCW 13.40.190(1)(d).

A critical aspect of a juvenile restitution order is that it remains "enforceable for a period of ten years." RCW 13.40.192(1). When the child reaches age 18 or at the end of juvenile court jurisdiction, "the superior court clerk must docket the remaining balance of the juvenile's legal financial obligations in the same manner as other judgments for the payment of money. The judgment remains valid and enforceable until ten years from the date of its imposition," unless the court clerk seeks an extension. *Id.*

While a person must still repay a civil judgment, this is less onerous and legally distinct from a court's restitution order in a judgment and sentence. *See, e.g., Kelly v. Robinson*, 479 U.S. 36, 50, 107 S. Ct. 353, 361, 93 L. Ed. 2d 216 (1986) (bankruptcy courts cannot discharge criminal judgments). While a civil debt remains a financial burden that follows a child into adulthood, the legislature did not intend for children to carry the stigma of conviction into adulthood by making these debts obstacles to sealing their juvenile record.

2. This Court should accept review because the Court of Appeals' misinterpretation of the restitution and sealing statutes effectively denies sealing relief to poor children.

The Court of Appeals ignored the critical limit on the duration of juvenile restitution orders in denying sealing relief to D.G.A, who had a "money judgment" for \$613.74, not a restitution order, when he moved to seal his juvenile adjudication. CP 28.

The juvenile sealing statutes prevent a court from administratively sealing a juvenile record if the "respondent has

not paid the full amount of restitution owing to the individual victim named in the restitution order.” RCW 13.50.260(f)(i). The meaning of this provision turns on the Juvenile Justice Act (JJA)’s restitution statutes, which limit the duration of a court’s restitution order. After juvenile jurisdiction expires, court-ordered restitution is converted to a “judgment” that is only “enforceable for a period of ten years.” RCW 13.40.192(1).

When, as in D.G.A.’s case, the restitution order and judgment have expired, there is no “restitution owing to the individual victim named in the restitution order” that would prohibit sealing a juvenile record under RCW 13.50.260(1)(f).

The plain meaning of a statute may be discerned “from all that the Legislature has said in the statute and related statutes which disclose legislative intent about the provision in question.” *State v. J.P.*, 149 Wn.2d 444, 450, 69 P.3d 318 (2003). The Court of Appeals simply ignored the legislature’s limit on the duration of the juvenile court’s restitution order in RCW 13.40.192(1) to find that even though the restitution order in D.G.A.’s case was

void, he was not eligible to seal his juvenile record under RCW 13.50.260(f)(i). *State v. D.G.A.*, No. 39046-2-III, *5 (Nov. 20, 2024). The juvenile sealing and the juvenile restitution statutes are interrelated. The sealing statute must not be read with a blind eye toward the restitution statute and the relief it affords.

Moreover, the limited duration of a restitution order is consistent with the JJA’s “primary goal” of “rehabilitation and reintegration of former juvenile offenders.” Laws of 2015, ch. 265. In enacting the juvenile sealing statute, the legislature found “[t]he public has a compelling interest in the rehabilitation of former juvenile offenders and their successful reintegration into society as active, law-abiding, and contributing members of their communities. When juvenile court records are publicly available, former juvenile offenders face substantial barriers to reintegration, as they are denied housing, employment, and education opportunities on the basis of these records.” *Id.*

The legislature did not intend for the rehabilitative value of juvenile record sealing to be available only to children from

families who can repay restitution, but this is the effect of the Court of Appeals' decision in this case. This is a matter of public interest affecting all children who cannot repay restitution, and whose life opportunities should not be limited by the Court of Appeals' mistaken interpretation of the juvenile restitution and sealing statutes. This Court should accept review. RAP 13.4(b)(4).

VI. CONCLUSION

Based on the foregoing, this Court should accept review.

DATED this 3rd day of March 2025.

Respectfully submitted,

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**VII. CERTIFICATE OF COMPLIANCE WITH RAP
18.17**

I certify that the word count for this brief, as determined by the word count function of Microsoft Word, and pursuant to Rule of Appellate Procedure 18.17, excluding title page, tables, certificates, appendices, signature blocks and pictorial images is 2,029.

RESPECTFULLY SUBMITTED this 3rd day of March
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CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2025, I filed the foregoing brief via the Washington Court Appellate Portal, which will serve one copy of the foregoing document by email on all attorneys of record.

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