Judicial Impact Fiscal Note

Revised

Bill Number: 1390 HB	Title: Legal financial obligations	Agency: 055-Admin Office of the Courts

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
General Fund-State 001-1	(1,205,856)	(1,205,856)	(2,411,712)	(2,411,712)	(2,411,712)
Judicial Information Systems Account-State 543-1	(1,194,575)	(1,194,575)	(2,389,150)	(2,389,150)	(2,389,150)
Counties	(6,170,370)	(6,170,370)	(12,340,740)	(12,340,740)	(12,340,740)
Cities	(124,187)	(124,187)	(248,374)	(248,374)	(248,374)
Total $	(8,694,988)	(8,694,988)	(17,389,976)	(17,389,976)	(17,389,976)

Estimated Expenditures from:

STATE	FY 2016	FY 2017	2015-17	2017-19	2019-21
State FTE Staff Years					
Account					
General Fund-State 001-1	739,761	97,591	837,352	38,065	
State Subtotal $	739,761	97,591	837,352	38,065	
COUNTY	**FY 2016**	**FY 2017**	**2015-17**	**2017-19**	**2019-21**
County FTE Staff Years					
Account					
Local - Counties	822,749	390,835	1,213,584	152,454	
Counties Subtotal $	822,749	390,835	1,213,584	152,454	
CITY	**FY 2016**	**FY 2017**	**2015-17**	**2017-19**	**2019-21**
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal $					
Local Subtotal $	822,749	390,835	1,213,584	152,454	
Total Estimated Expenditures $	1,562,510	488,426	2,050,936	190,519	

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

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Request # 1390 HB.2-2

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

This bill addresses Legal Financial Obligations (LFO).
Sections with potential court impact:

Section 1(1) would amend 10.82.090 to eliminate interest accrual on the non-restitution portion of an offender's LFOs imposed in superior courts or courts of limited jurisdictions as of the effective date of this act.

Section 1(2)(a) – would require the court, upon motion by the offender, to waive interest on the non-restitution portion of an offender's LFOs that occurred prior to effective date of this act.

Section 1(2)(b) – would require the court to waive interest that accrued on restitution while the offender was in total confinement for the conviction that gave rise to the LFO.

The amendments in Sections 2, 3, 4, and 5 would stop all interest accrual on criminal proceedings in district and municipal courts as of the effective date of this bill.

Section 6(3) would amend 10.01.160 to require the court to waive costs if the convicted defendant is indigent as defined in 10.101.010 at the time of sentencing.

Section 6(4) would add the option of converting unpaid costs to community restitution hours at the rate of not less than the state minimum wage when the defendant petitions the court, it's a manifest hardship on the defendant or his family and the defendant is not in default of payment.

Section 7(1) would amend 10.01.170 to require the courts to allow indigent defendants to make payments on their sentenced fines, penalties, assessments, fees, restitution or costs.

Section 7(2) would establish the following priority of how offender's monthly payments are applied:
1. Restitution principal until paid in full.
2. Payments shall be distributed proportionately among all other fines, costs other than costs of incarceration, fees, penalties and assessments until paid in full.
3. Costs of incarceration until paid in full
4. Interest

Section 8(4) would amend 10.01.180 to add the option, with the defendants consent, to convert the unpaid costs to community service hours at the rate of no less than the state minimum wage for each hour of community restitution. The court would not be allowed to reduce, revoke or convert the amount owed to community restitution hours for the crime victim penalty assessment.

Section 9 would amend 10.46.190 to require the superior courts to waive the jury fee costs if the defendant is indigent at the time of sentencing.

Section 10 would amend RCW 10.64.015 to require the courts to waive the costs on a judgment if they are indigent at the time of sentencing.

Section 11 would amend RCW 9.92.070 to require all courts to allow for payment of costs in installments if the court finds that the defendant is indigent.

Section 12(2)(d) would amend RCW 9.94A.6333 to require that a homeless or mentally ill defendant's failure to pay a legal financial obligation is not willful non-compliance and would not subject the offender to penalties.

Section 12(2)(f) requires the courts to modify the terms of payment of legal financial obligations, reduce or waive non-restitution legal financial obligations, or with the defendant's consent convert non-restitution legal financial obligations to community restitution hours at the rate of no less than the state minimum wage IF the defendant is indigent and the failure to pay was not willful. The crime victim

penalty assessment may not be reduced, waived, or converted to community restitution hours.

Section 13(1) would amend 9.94A.760 to require superior courts to waive LFOs described in 10.01.160 if the court finds that the offender is indigent at the time of sentencing.

Section 13(2) would establish the following priority of how offender's monthly payments are applied:
1. Restitution principal until paid in full.
2. Payments shall be distributed proportionately among all other fines, costs other than costs of incarceration, fees, penalties and assessments until paid in full.
3. Costs of incarceration until paid in full
4. Interest

Section 13(3) would not allow courts to order an offender to pay the cost of incarceration if the court finds that the offender is indigent at the time of sentencing. It would also limit the costs of incarceration to a rate of $50 per day.

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

Section 14(3)(d) would amend 9.94B.040 to require that a homeless or mentally ill defendant's failure to pay a legal financial obligation is not willful noncompliance and would not subject the offender to penalties. (For crimes committed prior to 7-1-2000)

Section 14(3)(f) requires the courts to modify the terms of payment of legal financial obligations, reduce or waive non-restitution legal financial obligations, or with the defendant's consent convert non-restitution legal financial obligations to community restitution hours at the rate of no less than the state minimum wage IF the defendant is indigent and the failure to pay was not willful. The crime victim penalty assessment may not be reduced, waived, or converted to community restitution hours.

Section 15 would amend RCW 3.62.085 to require any court organized under this title or Title 35 RCW to waive the conviction fee of $43 upon conviction or a plea of guilty if a defendant in a criminal case is indigent.

Section 16(2)(h) would amend RCW 36.18.020 to require a court of limited jurisdiction (district and municipal courts) to waive the appellate filing fee of $200 for an indigent defendant.

Section 17 would amend RCW 43.43.7541 to not require the court to impose the DNA database fee if the state has previously collected the offender's DNA as a result of a prior conviction.

II. B - Cash Receipts Impact

Section 1(1) would eliminate interest accrual on the non-restitution portion of an offender's LFOs imposed in superior courts or courts of limited jurisdictions as of the effective date of this act.

Section 1(2)(a) – would require the court, on motion by the defender, to waive interest on the non-restitution portion of an offender's LFOs that occurred prior to effective date of this act.

Judicial Information System (JIS) data shows that the average interest per year that was received on non-restitution LFOs from 2009 through 2014 was $998,303. If interest is no longer accruing there would be no future interest received. For purposes of this judicial impact note the $998,303 of average interest received per year is used to estimate the interest that will no longer be received in the future.

RCW 10.82.090 requires interest collected by the courts to be split as follows:
- 25% to state general fund
- 25% to the judicial information system account
- 50% to the county current expense fund

Therefore the estimated potential revenue loss per year to each of these accounts for this section would be:
- $249,576 to the state general fund
- $249,576 to the judicial information system account
- $499,151 to the county current expense fund

Section 1(2)(b) – would require the court to waive interest that accrued on restitution while the offender was in total confinement for the conviction that gave rise to the LFO.
There is no JIS data available to estimate the amount of restitution that accrued only during a defendant's confinement therefore the revenue loss for this sub-section cannot be estimated.

The amendments in Sections 2, 3, 4, and 5 would stop all interest accrual on LFOs for criminal proceedings in district and municipal courts as of the effective date of this bill. Interest on district and municipal court cases does not accrue until the LFOs are sent to a collection agency.

JIS data shows that in 2013 & 2014 the average interest per year received by district and municipal courts from collection agencies was $10,499,997. JIS data also shows that out of the 648,341 cases sent to collection agencies in 2014, 36% (235,917) were criminal cases.

For purposes of this judicial impact note it is assumed that 36% of the average interest collected per year (attributed to criminal cases) will be lost due to the provisions in these sections. 36% of $10,499,997 is $3,779,998.

RCW 10.82.090 requires interest collected by the courts to be split as follows:
- 25% to state general fund
- 25% to the judicial information system account
- 50% to the county current expense fund

Therefore the estimated potential revenue loss per year to each of these accounts for this section would be:
- $944,999 to the state general fund
- $944,999 to the judicial information system account
- $1,890,000 to the county current expense fund

Section 6(3) would require the court to waive costs if the convicted defendant is indigent as defined in 10.101.010 at the time of sentencing.

Superior Court -
JIS data shows that:
- The average amount of Superior court costs ordered under 10.01.160 per year from 2009-2013 was $12,496,915.
- The average percentage of costs paid on LFOs over this 5 years was 23.8%.

According to the Washington Office of Public Defense, 80-90% of people charged with felonies are found to be indigent by the courts.

To estimate the potential loss of revenue, the following calculation is used:
- Costs ordered of $12,496,915 x an 80% indigent rate = $9,997,532 of less costs ordered x the percentage of costs paid of 23.8% = $2,379,412 in less potential revenue collected per year.

Courts of Limited Jurisdiction (CLJs) -
JIS data shows that:
- The average amount of CLJ court costs ordered under 10.01.160 per year from 2009-2013 was $24,693,724 per year.
- The average percentage of costs paid on LFOs over this 5 years was 23.8%.

The US Census Bureau shows a 17.5% Washington State poverty level. For purposes of this judicial impact note it's assumed that 17.5 % of the defendants ordered to pay CLJ costs would be indigent.

To estimate the potential loss of revenue, the following calculation is used:
- Costs ordered of $24,693,724 x a 17.5% indigent rate = $4,321,401 of less costs ordered x the percentage of costs paid of 23.8% = $1,028,493 in less potential revenue collected per year.

Section 6(4) would add the option of converting unpaid costs to community restitution hours at the rate of not less than the state minimum wage when the defendant petitions the court, it's a manifest hardship on the defendant or his family and the defendant is not in default of payment. It is expected that there would be some reduction in revenue due to more LFOs converted to community service hours. However, there is no JIS data available to estimate how much the reduction would be.

Section 7(2) would mandate the priority of how offender's monthly payments are applied:
1. Restitution principal until paid in full.
2. Payments shall be distributed proportionately among all other fines, costs other than costs of incarceration, fees, penalties and assessments until paid in full.
3. Costs of incarceration until paid in full
4. Interest

This may change how payments are applied. State and local jurisdictions may see a delay in receipt of their portions of LFOs.

Section 8(4) would amend 10.01.180 to add the option, with the defendants consent, to convert the unpaid costs to community service hours at the rate of no less than the state minimum wage for each hour of community restitution. The court would not be allowed to reduced, revoked or converted to community restitution hours for the crime victim penalty assessment.

It is expected that there would be some reduction in revenue due to more LFOs converted to community service hours, however, there is no JIS data available to estimate how much the reduction would be.

Section 9 would require the superior courts to waive the jury fee costs if the defendant is indigent at the time of sentencing.
JIS data shows that:
- The average amount of jury fee costs ordered per year from 2009-2013 was $404,909.
- The average percentage of jury fee costs paid versus ordered over the 5 years was 40%.

To estimate the potential loss of revenue, the following calculation is used:
- Average costs ordered per year of $404,909 x an 80% indigent rate = $323,927 of less costs ordered x the percentage of costs paid of 40% = $129,570 in less revenue collected per year.

Section 10 would require the courts to waive the costs on a judgment if they are indigent at the time of sentencing. There is no JIS data to estimate possible additional costs that would be waived other than those already identified in previous sections of this bill.

Section 13(1) would require superior courts to waive costs described in 10.01.160 if the court finds that the offender is indigent at the time of sentencing. The costs that would no longer be received are included in the costs that would be waived in Section 6(3) above.

Section 13(2) would mandate the following priority of how offender's monthly payments are applied:
1. Restitution principal until paid in full.
2. Payments shall be distributed proportionately among all other fines, costs other than costs of incarceration, fees, penalties and assessments until paid in full.
3. Costs of incarceration until paid in full
4. Interest

This may change how payments are applied. State and local jurisdictions may be delayed in receiving their portions of LFOs.

Section 13(3) would not allow the court to order an offender to pay the cost of incarceration at the local jail if the court finds that the offender is indigent at the time of sentencing. The incarceration costs that would no longer be received are included in the costs that would be waived in Section 6(3) above.

Section 13(11) would require that a homeless or mentally ill defendant's failure to pay a legal financial obligation is not willful

noncompliance and shall not subject the offender to penalties. There is no JIS data to estimate how many LFOs belong to homeless or mentally ill persons to estimate what additional penalties would not be ordered and the revenue loss that would result.

Section 14(3)(d) would require that a homeless or mentally ill defendant's failure to pay a legal financial obligation for crimes committed prior to July 1, 2000, is not willful noncompliance and would not subject the offender to penalties. There is no JIS data to estimate how many homeless or mentally ill defendants might have been subject to additional penalties for willful non-compliance and the revenue loss that would result.

Section 14(3)(f) requires the courts to modify the terms of payment of legal financial obligations, reduce or waive non-restitution legal financial obligations, or with the defendant's consent convert non-restitution legal financial obligations to community restitution hours at the rate of no less than the state minimum wage IF the defendant is indigent and the failure to pay was not willful. The crime victim penalty assessment may not be reduced, waived, or converted to community restitution hours.

Current law already allows the court to modify legal financial obligations. This section would require it for indigent defendants. There is no JIS data to estimate how many more LFOs would be modified and the amount of LFOs that would be reduced or waived and the loss of revenue that would result.

Section 15 would require any district or municipal court to waive the conviction fee of $43 if a defendant in a criminal case is indigent.

The US Census Bureau shows a 17.5 % Washington State poverty level. For purposes of this judicial impact note it's assumed that 17.5 % of the defendants ordered to pay this fee would be indigent.

JIS data shows that:
- The average amount of conviction fees ordered per year from 2010-2014 was $3,001,787 in district courts and $2,087,185 in municipal courts.
- The average percentage of fees paid versus fees ordered over the 5 years is 46.4% in district court and 34% in municipal courts.

To estimate the potential loss of revenue, the following calculations is used:
- District Court:
5 year average of conviction fees ordered = $3,001,787 per year x a 17.5% indigent rate = $525,312 of less fees ordered.
525,312 x the percentage of fees paid of 46.4% = $243,744 in less revenue collected per year.

- Municipal Court:
5 year average of conviction fees ordered = $2,087,185 per year x a 17.5% indigent rate = $365,257 of less fees ordered.
$365,257 x the percentage of fees paid of 34% = $124,187 in less revenue collected per year.

Section 16(2)(h) would amend RCW 36.18.020 to require a court of limited jurisdiction (district and municipal courts) to waive the appellate filing fee of $200 for an indigent defendant.

JIS data shows that in 2013 there was $64,464 of appellate filing fees paid. For purposes of this judicial impact note it's assumed that 17.5 % of the defendants paying this fee would be indigent.

To estimate the potential loss of revenue for this section, the following calculation is used:
-US Census Bureau Washington State poverty level of 17.5 % x $64,464 = $11,281 in estimated revenue loss per year.

Section 17 would not require the court to impose the DNA database fee if the state has previously collected the offender's DNA as a result of a prior conviction. There is no JIS summary data to estimate how many future offenders would have previous DNA samples and would not be subject to the assessment of this fee.

II. C - Expenditures

Sections with potential court expenditure impact:

The following sections would require changes to the judicial information system (JIS):

Section 1(1) would amend 10.82.090 to end interest accrual on non-restitution LFO's imposed in a judgment as of the effective date of the section.
Section 1(2)(a) – would require the court to waive all non-restitution interest that occurred prior to effective date of this section.
Section 1(2)(b) – would require the court to waive interest on restitution that occurred during confinement.

The amendments in Sections 2, 3, 4, and 5 would stop all interest accrual on criminal proceedings in district and municipal courts as of the effective date of this bill.

Sections 7(2) and 13(2) would mandate the following priority of how offender's monthly payments are applied:
1. Restitution principal until paid in full.
2. Payments shall be distributed proportionately among all other fines, costs other than costs of incarceration, fees, penalties and assessments until paid in full.
3. Costs of incarceration until paid in full
4. Interest

These sections of the bill would require major modifications to the Judicial Information System (JIS) for programming, screen changes, interest calculation, documentation changes, reports, etc. These modifications are estimated to take up to 10,080 hours of AOC staff time which equates to a cost of $534,240. This represents a major rewrite of the JIS that is in the process of being replaced. The rewrite would take a minimum of one year.

Also, it must be noted that the system cannot be modified to meet the new requirements that would be imposed in Section 1 (2)(a). The system does not track prior non-restitution interest separately. Therefore, each court would be required to develop a manual procedure on a case by case basis to determine the amount of interest that would be waived. The procedure would be subject to audit. Some of the calculations could take hours because of the complexity of the legal financial obligation. For example, if an individual has an LFO that they have paid on for several years, some of the payments would have gone to interest and some to the principle. Calculations would need to be performed for each transaction.

Sections 8(4), 12(2)(f) and 14(3)(f) would require the courts to allow, with the defendants consent, to convert their unpaid costs (except for crime victim penalty assessments) to community service hours if the defendant is indigent.

It is assumed that once this option became available there would be at least 5% of eligible indigent defendants requesting hearings to have their current unpaid costs converted to community service hours during the first year. It is also assumed half that number would request hearings in year 2, 1% in year 3 and then the number would be minimal.

Based on input from the courts, this type of hearing could take approximately 30 minutes.

Superior Court:
There are 98,410 persons with superior court LFOs. According to the Washington Office of Public Defense, 80-90% of people charged with felonies are found to be indigent by the courts. If 80% of the 98,410 persons with superior court LFOs were indigent then there would be 78,728 people that would be eligible to convert their LFOs to community service.

If only 5 percent of those people (3,936) requested a hearing to convert their LFOs to community services hours the initial potential expenditures to the courts would be $898,769 for the county and $205,521 for the state.

The second year assumption is 2.5 percent of the remaining people who were eligible (1,869) would request a hearing resulting in a total expenditure to the courts of $524,369; $426,778 to the county and $97,591 to the state.

The third year it is assumed one percent of the remaining people (729) would request a hearing resulting in a total expenditure to the courts of $204,529; $166,464 to the county and $38,065 to the state.

This equates to an additional 1.74 judicial officer FTE, 4.25 superior court staff FTE and 5.61 clerk staff FTE for the first year. The second year FTE impact equates to an additional 0.83 judicial officer FTE, 2.02 superior court staff FTE and 2.66 clerk staff FTE. The third year FTE impact equates to an additional 0.32 judicial officer FTE, 0.79 superior court staff FTE and 1.04 clerk staff FTE.

District and Municipal Courts:
For the purpose of this judicial impact note, the total number of people who owe legal financial obligations to district and municipal courts will be combined. All of the calculations will be at the district court level.

There are 450,847 persons with district and municipal court LFOs. According to the U.S. Census Bureau, 17.5 percent of Washington residents are at or below 125 percent of the federal poverty level. For the purposes of this judicial impact estimate, the 17.5% indigent rate will be used.

If 17.5% of the 450,847 persons with limited jurisdiction court LFOs were indigent then there would be 78,898 people that would be eligible to convert their LFOs to community service.

Based on input from the courts, this type of hearing could take approximately 30 minutes. For illustration purposes, if only 5 percent of those people (3,945) requested a hearing to convert their LFOs to community services hours the potential impact to the district courts would be $822,749 costs to the county.

The second year assumption is 2.5 percent of the remaining people who were eligible (1,874) would request a hearing that would result in costs of $390,832 to the county.

The third year it is assumed one percent of the remaining people (731) would request a hearing that would result in costs of $152,454 to the county.

This equates to an additional 1.14 judicial officer FTE and 9.42 court staff FTE for the first year. The second year FTE impact equates to an additional 0.54 judicial officer FTE and 4.48 court staff FTE. The third year FTE impact equates to an additional 0.21 judicial officer FTE and 1.75 court staff FTE.

There is insufficient data to estimate the cost for cities and counties to handle the additional workload to manage a community service program. In addition, there are some cities and counties that do not have a community service program. Therefore, it is assumed that the conversion to community service would only be available where a community service program is established.

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

State	**FY 2016**	**FY 2017**	**2015-17**	**2017-19**	**2019-21**
FTE Staff Years					
Salaries and Wages					
Employee Benefits					
Professional Service Contracts					
Goods and Other Services					
Travel					
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
Total $					

III. B - Expenditure By Object or Purpose (County)

County	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
Total $					

III. C - Expenditure By Object or Purpose (City)

City	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years					
Salaries and Benefits					
Capital					
Other					
Total $					

Part IV: Capital Budget Impact