

# JUDICIAL IMPACT FISCAL NOTE

<b>Bill Number:</b> 1412 SHB	<b>Title:</b> Legal Financial Obligations	<b>Agency:</b> 055 – Administrative Office of the Courts (AOC)
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## Part I: Estimates

☐ **No Fiscal Impact**

### Estimated Cash Receipts to:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
<b>Total:</b>					

### Estimated Expenditures from:

STATE	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE – Staff Years					
<b>Account</b>					
General Fund – State (001-1)					
State Subtotal					
<b>COUNTY</b>					
County FTE Staff Years					
<b>Account</b>					
Local - Counties					
Counties Subtotal					
<b>CITY</b>					
City FTE Staff Years					
<b>Account</b>					
Local – Cities					
Cities Subtotal					
Local Subtotal					
<b>Total Estimated Expenditures:</b>					

*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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## Part II: Narrative Explanation

This bill would allow a court to not require a defendant to pay restitution to an insurer or entity, based on inability to pay. The bill would reduce the period a court has jurisdiction to enforce collection of legal financial obligations (LFO). The bill would allow a court to not impose interest on restitution, considering the circumstances of the defendant and victim. The bill would automatically waive all non-restitution interest accrued prior to June 7, 2018.

### Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

This bill differs from HB 1412:

- Would establish a standard of “current or likely future ability to pay” for provisions governing when a court may waive or not impose restitution and when enforcement of a judgment for LFOs may be extended beyond the initial enforcement period;
- Would provide that non-restitution LFOs are subject to the same enforcement period as restitution, rather than a shorter five-year period;
- Would provide an automatic waiver of non-restitution interest that accrued prior to June 7, 2018, applies to interest outstanding on the effective date of the bill; and
- Would revise the definition of “individual” and the definition of “legal financial obligation” for purposes of courts of limited jurisdiction (CLJ).

Section 1 – Would amend RCW 3.66.120 to provide that at any time, a court may determine that an offender is not required to pay, or may relieve the offender of the requirement to pay, full or partial restitution and accrued interest on restitution to any insurer or entity that is not an individual if the offender reasonably satisfies to the court that they do not have the means to make full or partial restitution to the insurer or entity that is not an individual and provides that the existing provision to extend jurisdiction ten years applies only if the offender willfully failed to pay the restitution obligation, as described in RCW 9.94A.6333 and 9.94B.040.

Section 2 – Would amend RCW 9.94A.750 to the same effects as noted in Section 1.

Section 3 – Would amend RCW 9.94A.753 to the same effects as noted in Section 1.

Section 5 - Would amend RCW 6.17.020, adding willfully failed to pay requirement and execution provisions.

Section 6 – Would amend RCW 9.92.060 to provide that a court may determine that the offender is not required to pay, or may relieve the offender of the requirement to pay, full or partial restitution and accrued interest on restitution to any insurer or entity that is not an individual if the offender reasonably satisfies the court that they do not have the means to make full or partial restitution.

Section 7 - Would amend RCW 9.95.210 to the same effects as Section 6.

Section 8 - Would add a new section to RCW 10.01 providing that a defendant who has been ordered to pay fines and who has not willfully failed to pay the obligation may at any time petition the sentencing court for remission of the payment of fines or of any unpaid portion. Would provide that if it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship [indigency] on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in fines, modify the method of payment under RCW 10.01.170, or convert the unpaid amounts to community restitution, if the jurisdiction has community restitution.

Section 9 – Would amend RCW 10.01.160 to change the definition of indigency and when remission is allowed.

Section 12(1) - Would amend RCW 10.82.090 to provide that all non-restitution interest that accrued prior to June 7, 2018, shall be automatically waived without motion of the defendant and that the court may elect not to impose interest on any restitution the court orders once the court considers mandatory factors.

Section 12(2) – Would provide that a court may elect not to impose interest on any restitution the court orders. Before determining not to impose interest on the restitution, a court shall inquire into and consider the following factors: (a) whether the offender is indigent, (b) the offender's available funds and other liabilities including child support and other legal financial obligations, (c) whether the offender is homeless, and (d) whether the offender is mentally ill. A court would be required to also consider the victim's input as it relates to the financial hardship caused to the victim if interest is not imposed. Would provide that a court may also consider any other information that the court believes relates to not imposing interest on restitution. Would provide that after consideration of these factors, a court may waive the imposition of restitution interest.

Section 24 – Would add a new section to chapter 3.66 RCW to create a courts of limited jurisdiction LFO definition.

## **II.B - Cash Receipt Impact**

Indeterminate, but could be significant. Waiver of interest on non-restitution legal financial obligations would mean less revenue collected by courts for distribution to state and local accounts.

Section 12 of this bill would provide that all non-restitution interest revenue ordered prior to June 8, 2018 would be automatically waived without motion of the defendant. The following describes the potential impact:

### **Courts of Limited Jurisdiction (CLJ) – District and Municipal Courts**

Interest on non-restitution LFOs only begins to accrue when the debt is sent to a collection agency. All individual CLJ courts maintain their own contracts with many different collection agencies. Each CLJ court would need to contact their respective collection agencies to waive interest. There is no data available to estimate the amount of accrued interest that would be waived, but it is expected the amount would be significant.

### **Superior Courts**

Accrued interest on non-restitution LFOs prior to June 7, 2018 is approximately \$644 million statewide<sup>1</sup>. This bill would provide for the automatic waiver of this. However, the actual loss of potential non-restitution LFO interest would be less, as in some cases LFOs are not paid, only partially paid, or paid over an extended period of time. For illustrative purposes, the following scenario is provided assuming a fifteen percent collection rate for non-restitution LFO interest.

**Table I – Potential Superior Court Non-Restitution LFO Interest Loss, 15 Percent Scenario<sup>2</sup>**

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<sup>1</sup> This amount represents the total amount of accrued non-restitution LFO interest that has accrued over many years, this is not an annual amount.

<sup>2</sup> Potential interest loss as displayed would occur over a number of years.

Non-Restitution LFO Accrued Interest	644,000,000
Fifteen Percent	96,600,000
<b>Distributions</b>	
Local Government Revenue Loss (50%)	(48,300,000)
State General Fund Revenue Loss (25%)	(24,150,000)
Judicial Information System Revenue Loss (25%)	(24,150,000)
<b>Total Interest Revenue Loss</b>	<b>(96,600,000)</b>

**NOTE:** Interest revenue is distributed based on RCW 10.82.090; 25% to the State General Fund, 25% to the Judicial Information Systems Account, and 50% to the individual county current expense accounts. All these funding sources would experience a reduction in revenue

## II.C – Expenditures

Indeterminate. It is possible that the options available (Section 1 through Section 8) for defendants to request relief from legal financial obligations may increase the number of filings for this purpose. There is no data available to estimate this increase.

Judicial education would be required. Minor forms revision would be required. These impacts would be managed within existing resources.

## Part III: Expenditure Detail

### III.A – Expenditures by Object or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE – Staff Years					
A – Salaries & Wages					
B – Employee Benefits					
C – Prof. Service Contracts					
E – Goods and Services					
G – Travel					
J – Capital Outlays					
P – Debt Service					
<b>Total:</b>					

### III.B – Detail:

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
<b>Total FTE's</b>						

## Part IV: Capital Budget Impact

None.

## Part V: New Rule Making Required

None.