

FINAL BILL REPORT

E2SHB 1783

C 269 L 18
Synopsis as Enacted

Brief Description: Concerning legal financial obligations.

Sponsors: House Committee on 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).

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background:

Legal Financial Obligations.

When a defendant is convicted of a crime, the court may impose legal financial obligations (LFOs) as part of the judgment and sentence. Legal financial obligations include: victim restitution; crime victims' compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments.

Interest on Legal Financial Obligations.

Interest Rate. Legal financial obligations bear interest from the date of judgment at the same rate that applies to civil judgments. The rate of interest generally applicable to civil judgments is the greater of 12 percent or four points above the 26-week treasury bill rate. As a result of low treasury bill rates, 12 percent has been the applicable interest rate on LFOs for several decades. For cases in courts of limited jurisdiction, interest accrues on nonrestitution financial obligations at the rate of 12 percent upon assignment to a collection agency.

Interest that accrues on the restitution portion of LFOs is paid to the victim of the offense. All other accrued interest is split between the state and the county as follows: 25 percent to the State General Fund; 25 percent to the state Judicial Information System Account; and 50 percent to the county, 25 percent of which must be used to fund local courts.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Reduction or Waiver of Interest. An offender may petition the court to reduce or waive the interest on LFOs as an incentive for the offender to pay the principal. The court must waive interest on the portion of LFOs that accrued during the term of total confinement for the conviction giving rise to the LFOs if it creates a hardship for the offender or his or her family. The court may otherwise reduce interest on nonrestitution LFOs if the offender has made a good faith effort to pay. Interest on restitution may not be waived, but may be reduced if the offender has paid the restitution principal in full.

Imposition and Collection of Legal Financial Obligations.

Cost. Costs that may be imposed on a defendant include public defense costs, jury fees, criminal filing fees, bench warrant fees, deferred prosecution fees, pretrial supervision fees, witness costs, incarceration costs, and other costs as ordered by the court.

A court may not order a defendant to pay costs unless the court finds that the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court must take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose. A defendant not in default in the payment of costs may petition for remission of all or part of the costs owed if payment of the amount due will result in manifest hardship to the defendant or his or her family.

Priority of Payment. An offender's payments towards LFOs are applied first to restitution, and then proportionally to other monetary obligations after restitution has been satisfied. Costs of incarceration, if ordered, are paid last.

Failure to Pay Legal Financial Obligations.

The requirement that an offender pay a monthly sum towards LFOs is a condition of the sentence, and an offender is subject to penalties for noncompliance. Under the Sentencing Reform Act, sanctions for a willful failure to pay may include incarceration or other penalties such as work crew or community restitution. If the failure to pay is not willful, the court may modify the offender's LFOs.

Civil contempt sanctions may also apply to an offender who fails to pay LFOs. If the court finds that the failure to pay was willful, the court may impose contempt sanctions including incarceration. If the court determines the failure to pay was not willful, the court may modify the terms of payment or reduce or revoke the amount of the offender's LFOs.

DNA Database Fee.

A biological sample must be collected for purposes of DNA identification analysis from every person convicted of a felony or certain other offenses, and the court must impose a \$100 fee as part of the sentence for the offense. Eighty percent of the fee is deposited into the DNA Database Account, and 20 percent of the fee is transmitted to the local agency that collected the biological sample.

Crime Victim Penalty Assessment.

A crime victim penalty assessment must be imposed on any adult convicted of a criminal offense in superior court, with some exceptions for vehicle-related offenses. The penalty assessment is \$500 in the case of a felony or gross misdemeanor offense and \$250 in the case

of a misdemeanor offense. A juvenile offender who is found to have committed a most serious offense must be assessed a penalty assessment in the amount of \$100.

The county treasurer must remit 32 percent of the amounts collected to the State Treasurer for deposit in the State General Fund. Of the remaining 68 percent of amounts collected, the county treasurer must remit 50 percent to a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes.

Summary:

Legal Financial Obligation Interest.

Interest Rate. Interest accrual on the nonrestitution portion of an offender's legal financial obligations (LFOs) imposed in superior court or courts of limited jurisdiction is eliminated as of the effective date of the act.

Reduction or Waiver of Interest. Standards for the reduction or waiver of interest on LFOs are revised. Upon motion of the offender, the court must waive interest on the nonrestitution portion of the LFOs that accrued prior to the effective date of the act.

Imposition and Collection of Legal Financial Obligations.

Costs. A court may not impose costs on an offender who is indigent at the time of sentencing, or appellate costs on an offender who is indigent at the time the request for appellate costs is made. A person is "indigent" if the person is receiving certain types of public assistance, involuntarily committed to a public mental health facility, or receiving an annual income after taxes of 125 percent or less of the federal poverty level.

An offender who is not in default in the payment of costs may request the court to convert unpaid costs to community restitution hours at the rate of the minimum wage if payment of the amount due will result in manifest hardship to the defendant. Manifest hardship exists when the defendant is indigent.

Priority of Payment. An offender's LFO payment must be applied in the following order of priority until satisfied:

- first, proportionally to restitution to victims that have not been fully compensated from other resources;
- second, proportionally to restitution to insurance or other sources with respect to a loss that has provided compensation to victims;
- third, proportionally to crime victims' assessments; and
- fourth, proportionally to costs, fines, and other assessments.

The requirement that costs of incarceration be paid last after all other LFOs are satisfied is removed. The priority of payment applies to cases in courts of limited jurisdiction as well as superior court.

Payment Plans. If the court finds that the defendant is indigent, the court must grant permission for payment of LFOs to be made within a specified period of time or in specified installments.

Enforcement of Legal Financial Obligations.

A court may not sanction an offender for failure to pay LFOs unless the failure to pay is willful. An offender's failure to pay is willful only if the offender has the current ability to pay but refuses to do so. When determining an offender's ability to pay, the court must consider the offender's: income and assets; basic living costs and other liabilities including child support and other LFOs; and bona fide efforts to acquire additional resources. An offender who is indigent is presumed to lack the current ability to pay.

If the court determines that the offender is homeless or is a person who is mentally ill, failure to pay LFOs is not willful noncompliance with the conditions of the sentence and does not subject the offender to penalties.

When a court is considering sanctions for failure to pay LFOs, if the court finds that failure to pay is not willful the court may, and if the defendant is indigent the court must, either: (1) modify the terms of payment; (2) reduce or waive nonrestitution amounts; or (3) allow conversion of nonrestitution obligations to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage for each hour of community restitution. The crime victim penalty assessment may not be reduced, waived, or converted to community restitution hours.

DNA Database Fee.

The court is not required to impose the DNA database fee if the state has previously collected the offender's DNA as a result of a prior conviction.

Crime Victim Penalty Assessment.

One hundred percent of the crime victim penalty assessment amounts received by the county treasurer must be deposited into a fund for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes.

Other.

Nothing in the act requires the courts to refund or reimburse amounts previously paid toward LFOs or interest on LFOs.

Votes on Final Passage:

2017 Regular Session

House 91 7

2017 First Special Session

House 89 3

2017 Second Special Session

House 86 8

2018 Regular Session

House 86 12

Senate 32 17 (Senate amended)

House 83 15 (House concurred)

Effective: June 7, 2018

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**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1783

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 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 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 ((€)); (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 waive 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.

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