

---

**BILL REQUEST - CODE REVISER'S OFFICE**

---

BILL REQ. #: S-4572.2/16 2nd draft

ATTY/TYPIST: AI:lcl

BRIEF DESCRIPTION: Concerning the priority of payment of legal financial obligations under the sentencing reform act.

1 AN ACT Relating to the priority of payment of legal financial  
2 obligations under the sentencing reform act; amending RCW 9.94A.760;  
3 and providing an effective date.

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

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

7 (1) Whenever a person is convicted in superior court, the court  
8 may order the payment of a legal financial obligation as part of the  
9 sentence. The court must on either the judgment and sentence or on a  
10 subsequent order to pay, designate the total amount of a legal  
11 financial obligation and segregate this amount among the separate  
12 assessments made for restitution((~~r~~)) to victims that have not been  
13 fully compensated from other sources; restitution to insurance or  
14 other sources with respect to a loss that has provided compensation  
15 to victims; and costs, fines, and other assessments required by law.  
16 On the same order, the court is also to set a sum that the offender  
17 is required to pay on a monthly basis towards satisfying the legal  
18 financial obligation. If the court fails to set the offender monthly  
19 payment amount, the department shall set the amount if the department  
20 has active supervision of the offender, otherwise the county clerk  
21 shall set the amount.

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

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

10        (b) Second, proportionally to restitution to insurance or other  
11 sources with respect to a loss that has provided compensation to  
12 victims;

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

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

16        ~~((+2))~~ (3) If the court determines that the offender, at the  
17 time of sentencing, has the means to pay for the cost of  
18 incarceration, the court may require the offender to pay for the cost  
19 of incarceration at a rate of fifty dollars per day of incarceration,  
20 if incarcerated in a prison, or the court may require the offender to  
21 pay the actual cost of incarceration per day of incarceration, if  
22 incarcerated in a county jail. In no case may the court require the  
23 offender to pay more than one hundred dollars per day for the cost of  
24 incarceration. ~~((Payment of other court ordered financial~~  
25 ~~obligations, including all legal financial obligations and costs of~~  
26 ~~supervision shall take precedence over the payment of the cost of~~  
27 ~~incarceration ordered by the court.))~~ All funds recovered from  
28 offenders for the cost of incarceration in the county jail shall be  
29 remitted to the county and the costs of incarceration in a prison  
30 shall be remitted to the department.

31        ~~((+3))~~ (4) The court may add to the judgment and sentence or  
32 subsequent order to pay a statement that a notice of payroll  
33 deduction is to be issued immediately. If the court chooses not to  
34 order the immediate issuance of a notice of payroll deduction at  
35 sentencing, the court shall add to the judgment and sentence or  
36 subsequent order to pay a statement that a notice of payroll  
37 deduction may be issued or other income-withholding action may be  
38 taken, without further notice to the offender if a monthly court-  
39 ordered legal financial obligation payment is not paid when due, and

1 an amount equal to or greater than the amount payable for one month  
2 is owed.

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

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

1 compliance with payment of the legal financial obligations, until the  
2 obligation is completely satisfied, regardless of the statutory  
3 maximum for the crime. The department may only supervise the  
4 offender's compliance with payment of the legal financial obligations  
5 during any period in which the department is authorized to supervise  
6 the offender in the community under RCW 9.94A.728, 9.94A.501, or in  
7 which the offender is confined in a state correctional institution or  
8 a correctional facility pursuant to a transfer agreement with the  
9 department, and the department shall supervise the offender's  
10 compliance during any such period. The department is not responsible  
11 for supervision of the offender during any subsequent period of time  
12 the offender remains under the court's jurisdiction. The county clerk  
13 is authorized to collect unpaid legal financial obligations at any  
14 time the offender remains under the jurisdiction of the court for  
15 purposes of his or her legal financial obligations.

16 ~~((+5))~~ (6) In order to assist the court in setting a monthly sum  
17 that the offender must pay during the period of supervision, the  
18 offender is required to report to the department for purposes of  
19 preparing a recommendation to the court. When reporting, the offender  
20 is required, under oath, to respond truthfully and honestly to all  
21 questions concerning present, past, and future earning capabilities  
22 and the location and nature of all property or financial assets. The  
23 offender is further required to bring all documents requested by the  
24 department.

25 ~~((+6))~~ (7) After completing the investigation, the department  
26 shall make a report to the court on the amount of the monthly payment  
27 that the offender should be required to make towards a satisfied  
28 legal financial obligation.

29 ~~((+7))~~ (8)(a) During the period of supervision, the department  
30 may make a recommendation to the court that the offender's monthly  
31 payment schedule be modified so as to reflect a change in financial  
32 circumstances. If the department sets the monthly payment amount, the  
33 department may modify the monthly payment amount without the matter  
34 being returned to the court. During the period of supervision, the  
35 department may require the offender to report to the department for  
36 the purposes of reviewing the appropriateness of the collection  
37 schedule for the legal financial obligation. During this reporting,  
38 the offender is required under oath to respond truthfully and  
39 honestly to all questions concerning earning capabilities and the  
40 location and nature of all property or financial assets. The offender

1 shall bring all documents requested by the department in order to  
2 prepare the collection schedule.

3 (b) Subsequent to any period of supervision, or if the department  
4 is not authorized to supervise the offender in the community, the  
5 county clerk may make a recommendation to the court that the  
6 offender's monthly payment schedule be modified so as to reflect a  
7 change in financial circumstances. If the county clerk sets the  
8 monthly payment amount, or if the department set the monthly payment  
9 amount and the department has subsequently turned the collection of  
10 the legal financial obligation over to the county clerk, the clerk  
11 may modify the monthly payment amount without the matter being  
12 returned to the court. During the period of repayment, the county  
13 clerk may require the offender to report to the clerk for the purpose  
14 of reviewing the appropriateness of the collection schedule for the  
15 legal financial obligation. During this reporting, the offender is  
16 required under oath to respond truthfully and honestly to all  
17 questions concerning earning capabilities and the location and nature  
18 of all property or financial assets. The offender shall bring all  
19 documents requested by the county clerk in order to prepare the  
20 collection schedule.

21 ((+8)) (9) After the judgment and sentence or payment order is  
22 entered, the department is authorized, for any period of supervision,  
23 to collect the legal financial obligation from the offender.  
24 Subsequent to any period of supervision or, if the department is not  
25 authorized to supervise the offender in the community, the county  
26 clerk is authorized to collect unpaid legal financial obligations  
27 from the offender. Any amount collected by the department shall be  
28 remitted daily to the county clerk for the purpose of disbursements.  
29 The department and the county clerks are authorized, but not  
30 required, to accept credit cards as payment for a legal financial  
31 obligation, and any costs incurred related to accepting credit card  
32 payments shall be the responsibility of the offender.

33 ((+9)) (10) The department or any obligee of the legal financial  
34 obligation may seek a mandatory wage assignment for the purposes of  
35 obtaining satisfaction for the legal financial obligation pursuant to  
36 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify  
37 the county clerk. The county clerks shall notify the department, or  
38 the administrative office of the courts, whichever is providing the  
39 monthly billing for the offender.

1       (~~(10)~~) (11) The requirement that the offender pay a monthly sum  
2 towards a legal financial obligation constitutes a condition or  
3 requirement of a sentence and the offender is subject to the  
4 penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737,  
5 or 9.94A.740.

6       (~~(11)~~) (12)(a) The administrative office of the courts shall  
7 mail individualized periodic billings to the address known by the  
8 office for each offender with an unsatisfied legal financial  
9 obligation.

10       (b) The billing shall direct payments, other than outstanding  
11 cost of supervision assessments under RCW 9.94A.780, parole  
12 assessments under RCW 72.04A.120, and cost of probation assessments  
13 under RCW 9.95.214, to the county clerk, and cost of supervision,  
14 parole, or probation assessments to the department.

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

18       (d) The county clerks, the administrative office of the courts,  
19 and the department shall maintain agreements to implement this  
20 subsection.

21       (~~(12)~~) (13) The department shall arrange for the collection of  
22 unpaid legal financial obligations during any period of supervision  
23 in the community through the county clerk. The department shall  
24 either collect unpaid legal financial obligations or arrange for  
25 collections through another entity if the clerk does not assume  
26 responsibility or is unable to continue to assume responsibility for  
27 collection pursuant to subsection (~~(4)~~) (5) of this section. The  
28 costs for collection services shall be paid by the offender.

29       (~~(13)~~) (14) The county clerk may access the records of the  
30 employment security department for the purposes of verifying  
31 employment or income, seeking any assignment of wages, or performing  
32 other duties necessary to the collection of an offender's legal  
33 financial obligations.

34       (~~(14)~~) (15) Nothing in this chapter makes the department, the  
35 state, the counties, or any state or county employees, agents, or  
36 other persons acting on their behalf liable under any circumstances  
37 for the payment of these legal financial obligations or for the acts  
38 of any offender who is no longer, or was not, subject to supervision  
39 by the department for a term of community custody, and who remains

1 under the jurisdiction of the court for payment of legal financial  
2 obligations.

3 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2016.

--- END ---