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SENATE BILL 6243

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State of Washington

56th Legislature

2000 Regular Session

By Senators Costa, McCaslin, Kline, Long, Prentice, Zarelli, Fairley, Gardner, Thibaudeau, Heavey, Goings and Kohl-Welles

Read first time . Referred to Committee on .

1 AN ACT Relating to restitution to the estate of crime victims;  
2 reenacting and amending RCW 9.94A.142; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The intent of this act is to confirm the  
5 holding in *State v. Edelman*, Docket Number 42812-8-I, dated August 30,  
6 1999, that restitution under RCW 9.94A.142 must be paid to the estate  
7 of the victim after the victim is deceased.

8 **Sec. 2.** RCW 9.94A.142 and 1997 c 121 s 4 and 1997 c 52 s 2 are  
9 each reenacted and amended to read as follows:

10 (1) When restitution is ordered, the court shall determine the  
11 amount of restitution due at the sentencing hearing or within one  
12 hundred eighty days except as provided in subsection (4) of this  
13 section. The court may continue the hearing beyond the one hundred  
14 eighty days for good cause. The court shall then set a minimum monthly  
15 payment that the offender is required to make towards the restitution  
16 that is ordered. If a victim dies before restitution is paid in full,  
17 any unpaid restitution shall be paid to the victim's estate. The court  
18 should take into consideration the total amount of the restitution

1 owed, the offender's present, past, and future ability to pay, as well  
2 as any assets that the offender may have. During the period of  
3 supervision, the community corrections officer may examine the offender  
4 to determine if there has been a change in circumstances that warrants  
5 an amendment of the monthly payment schedule. The community  
6 corrections officer may recommend a change to the schedule of payment  
7 and shall inform the court of the recommended change and the reasons  
8 for the change. The sentencing court may then reset the monthly  
9 minimum payments based on the report from the community corrections  
10 officer of the change in circumstances. Except as provided in  
11 subsection (3) of this section, restitution ordered by a court pursuant  
12 to a criminal conviction shall be based on easily ascertainable damages  
13 for injury to or loss of property, actual expenses incurred for  
14 treatment for injury to persons, and lost wages resulting from injury.  
15 Restitution shall not include reimbursement for damages for mental  
16 anguish, pain and suffering, or other intangible losses, but may  
17 include the costs of counseling reasonably related to the offense. The  
18 amount of restitution shall not exceed double the amount of the  
19 offender's gain or the victim's loss from the commission of the crime.  
20 For the purposes of this section, the offender shall remain under the  
21 court's jurisdiction for a term of ten years following the offender's  
22 release from total confinement or ten years subsequent to the entry of  
23 the judgment and sentence, whichever period is longer. Prior to the  
24 expiration of the initial ten-year period, the superior court may  
25 extend jurisdiction under the criminal judgment an additional ten years  
26 for payment of restitution. The portion of the sentence concerning  
27 restitution may be modified as to amount, terms and conditions during  
28 either the initial ten-year period or subsequent ten-year period if the  
29 criminal judgment is extended, regardless of the expiration of the  
30 offender's term of community supervision and regardless of the  
31 statutory maximum for the crime. The court may not reduce the total  
32 amount of restitution ordered because the offender may lack the ability  
33 to pay the total amount. The offender's compliance with the  
34 restitution shall be supervised by the department of corrections for  
35 ten years following the entry of the judgment and sentence or ten years  
36 following the offender's release from total confinement. If  
37 jurisdiction under the criminal judgment is extended, the department is  
38 not responsible for supervision of the offender during the subsequent  
39 period.

1 (2) Restitution shall be ordered whenever the offender is convicted  
2 of an offense which results in injury to any person or damage to or  
3 loss of property or as provided in subsection (3) of this section  
4 unless extraordinary circumstances exist which make restitution  
5 inappropriate in the court's judgment and the court sets forth such  
6 circumstances in the record. In addition, restitution shall be ordered  
7 to pay for an injury, loss, or damage if the offender pleads guilty to  
8 a lesser offense or fewer offenses and agrees with the prosecutor's  
9 recommendation that the offender be required to pay restitution to a  
10 victim of an offense or offenses which are not prosecuted pursuant to  
11 a plea agreement.

12 (3) Restitution for the crime of rape of a child in the first,  
13 second, or third degree, in which the victim becomes pregnant, shall  
14 include: (a) All of the victim's medical expenses that are associated  
15 with the rape and resulting pregnancy; and (b) child support for any  
16 child born as a result of the rape if child support is ordered pursuant  
17 to a civil superior court or administrative order for support for that  
18 child. The clerk must forward any restitution payments made on behalf  
19 of the victim's child to the Washington state child support registry  
20 under chapter 26.23 RCW. Identifying information about the victim and  
21 child shall not be included in the order. The defendant shall receive  
22 a credit against any obligation owing under the administrative or  
23 superior court order for support of the victim's child. For the  
24 purposes of this subsection, the offender shall remain under the  
25 court's jurisdiction until the defendant has satisfied support  
26 obligations under the superior court or administrative order but not  
27 longer than a maximum term of twenty-five years following the  
28 offender's release from total confinement or twenty-five years  
29 subsequent to the entry of the judgment and sentence, whichever period  
30 is longer. The court may not reduce the total amount of restitution  
31 ordered because the offender may lack the ability to pay the total  
32 amount. The department shall supervise the offender's compliance with  
33 the restitution ordered under this subsection.

34 (4) Regardless of the provisions of subsections (1), (2), and (3)  
35 of this section, the court shall order restitution in all cases where  
36 the victim is entitled to benefits under the crime victims'  
37 compensation act, chapter 7.68 RCW. If the court does not order  
38 restitution and the victim of the crime has been determined to be  
39 entitled to benefits under the crime victims' compensation act, the

1 department of labor and industries, as administrator of the crime  
2 victims' compensation program, may petition the court within one year  
3 of entry of the judgment and sentence for entry of a restitution order.  
4 Upon receipt of a petition from the department of labor and industries,  
5 the court shall hold a restitution hearing and shall enter a  
6 restitution order.

7 (5) In addition to any sentence that may be imposed, a defendant  
8 who has been found guilty of an offense involving fraud or other  
9 deceptive practice or an organization which has been found guilty of  
10 any such offense may be ordered by the sentencing court to give notice  
11 of the conviction to the class of persons or to the sector of the  
12 public affected by the conviction or financially interested in the  
13 subject matter of the offense by mail, by advertising in designated  
14 areas or through designated media, or by other appropriate means.

15 (6) This section does not limit civil remedies or defenses  
16 available to the victim, survivors of the victim, or defendant  
17 including support enforcement remedies for support ordered under  
18 subsection (3) of this section for a child born as a result of a rape  
19 of a child victim. The court shall identify in the judgment and  
20 sentence the victim or victims entitled to restitution and what amount  
21 is due each victim. The state or victim may enforce the court-ordered  
22 restitution in the same manner as a judgment in a civil action.  
23 Restitution collected through civil enforcement must be paid through  
24 the registry of the court and must be distributed proportionately  
25 according to each victim's loss when there is more than one victim.

26 (7) This section shall apply to offenses committed after July 1,  
27 1985.

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