
SENATE BILL 5672

State of Washington

57th Legislature

2001 Regular Session

By Senators Costa, Long, Hargrove, Constantine, Shin, Kline, Jacobsen and Kohl-Welles

Read first time 01/30/2001. Referred to Committee on Judiciary.

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*, 97 Wn. App. 161 (1999), that restitution
6 under RCW 9.94A.142 must be paid to the estate of the victim after the
7 victim is deceased.

8 **Sec. 2.** RCW 9.94A.142 and 2000 c 226 s 3 and 2000 c 28 s 33 are
9 each reenacted and amended to read as follows:

10 This section applies to offenses committed after July 1, 1985.

11 (1) When restitution is ordered, the court shall determine the
12 amount of restitution due at the sentencing hearing or within one
13 hundred eighty days except as provided in subsection (7) of this
14 section. The court may continue the hearing beyond the one hundred
15 eighty days for good cause. The court shall then set a minimum monthly
16 payment that the offender is required to make towards the restitution
17 that is ordered. If a victim dies before restitution is paid in full,
18 any unpaid restitution shall be paid to the victim's estate. The court

1 should take into consideration the total amount of the restitution
2 owed, the offender's present, past, and future ability to pay, as well
3 as any assets that the offender may have.

4 (2) During the period of supervision, the community corrections
5 officer may examine the offender to determine if there has been a
6 change in circumstances that warrants an amendment of the monthly
7 payment schedule. The community corrections officer may recommend a
8 change to the schedule of payment and shall inform the court of the
9 recommended change and the reasons for the change. The sentencing
10 court may then reset the monthly minimum payments based on the report
11 from the community corrections officer of the change in circumstances.

12 (3) Except as provided in subsection (6) of this section,
13 restitution ordered by a court pursuant to a criminal conviction shall
14 be based on easily ascertainable damages for injury to or loss of
15 property, actual expenses incurred for treatment for injury to persons,
16 and lost wages resulting from injury. Restitution shall not include
17 reimbursement for damages for mental anguish, pain and suffering, or
18 other intangible losses, but may include the costs of counseling
19 reasonably related to the offense. The amount of restitution shall not
20 exceed double the amount of the offender's gain or the victim's loss
21 from the commission of the crime.

22 (4) For the purposes of this section, for an offense committed
23 prior to July 1, 2000, the offender shall remain under the court's
24 jurisdiction for a term of ten years following the offender's release
25 from total confinement or ten years subsequent to the entry of the
26 judgment and sentence, whichever period ends later. Prior to the
27 expiration of the initial ten-year period, the superior court may
28 extend jurisdiction under the criminal judgment an additional ten years
29 for payment of restitution. For an offense committed on or after July
30 1, 2000, the offender shall remain under the court's jurisdiction until
31 the obligation is completely satisfied, regardless of the statutory
32 maximum for the crime. The portion of the sentence concerning
33 restitution may be modified as to amount, terms, and conditions during
34 any period of time the offender remains under the court's jurisdiction,
35 regardless of the expiration of the offender's term of community
36 supervision and regardless of the statutory maximum sentence for the
37 crime. The court may not reduce the total amount of restitution
38 ordered because the offender may lack the ability to pay the total
39 amount. The offender's compliance with the restitution shall be

1 supervised by the department for ten years following the entry of the
2 judgment and sentence or ten years following the offender's release
3 from total confinement. The department is not responsible for
4 supervision of the offender during any subsequent period of time the
5 offender remains under the court's jurisdiction.

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

17 (6) Restitution for the crime of rape of a child in the first,
18 second, or third degree, in which the victim becomes pregnant, shall
19 include: (a) All of the victim's medical expenses that are associated
20 with the rape and resulting pregnancy; and (b) child support for any
21 child born as a result of the rape if child support is ordered pursuant
22 to a civil superior court or administrative order for support for that
23 child. The clerk must forward any restitution payments made on behalf
24 of the victim's child to the Washington state child support registry
25 under chapter 26.23 RCW. Identifying information about the victim and
26 child shall not be included in the order. The offender shall receive
27 a credit against any obligation owing under the administrative or
28 superior court order for support of the victim's child. For the
29 purposes of this subsection, the offender shall remain under the
30 court's jurisdiction until the offender has satisfied support
31 obligations under the superior court or administrative order for the
32 period provided in RCW 4.16.020 or a maximum term of twenty-five years
33 following the offender's release from total confinement or twenty-five
34 years subsequent to the entry of the judgment and sentence, whichever
35 period is longer. The court may not reduce the total amount of
36 restitution ordered because the offender may lack the ability to pay
37 the total amount. The department shall supervise the offender's
38 compliance with the restitution ordered under this subsection.

1 (7) Regardless of the provisions of subsections (1) through (6) of
2 this section, the court shall order restitution in all cases where the
3 victim is entitled to benefits under the crime victims' compensation
4 act, chapter 7.68 RCW. If the court does not order restitution and the
5 victim of the crime has been determined to be entitled to benefits
6 under the crime victims' compensation act, the department of labor and
7 industries, as administrator of the crime victims' compensation
8 program, may petition the court within one year of entry of the
9 judgment and sentence for entry of a restitution order. Upon receipt
10 of a petition from the department of labor and industries, the court
11 shall hold a restitution hearing and shall enter a restitution order.

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

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

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