

HOUSE BILL REPORT

HB 1514

As Reported by House Committee On:

Criminal Justice & Corrections

Title: An act relating to interest on legal financial obligations.

Brief Description: Suspending accrual of interest for financial obligations during total confinement.

Sponsors: Representatives Darneille, Sullivan, Berkey and Kagi.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/12/03, 3/5/03 [DPS].

Brief Summary of Substitute Bill

- Suspends the accrual of interest on a legal financial obligation during the time an offender is incarcerated in a state, out-of-state, or federal correctional institution.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi and Lovick.

Minority Report: Do not pass. Signed by 3 members: Representatives Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Pearson.

Staff: Yvonne Walker (786-7841).

Background:

Under the Sentencing Reform Act, a "legal financial obligation" (LFO) is a court-imposed obligation to pay money and may consist of any of the following: restitution to the victim; statutorily imposed crime victims' compensation fees; court costs; county or interlocal drug fund assessments; court-appointed attorneys' fees and costs of defense; fines; reimbursement for emergency response expenses in the case of a

driving while intoxicated (DWI)-related vehicular assault or vehicular homicide conviction; and any other financial obligation assessed to the offender as a result of a felony conviction. The sentence must specify the total amount of legal financial obligation owed, and require the offender to pay a specified monthly sum toward that obligation.

Interest accrues on the LFO from the date the judgment is entered, including the time during which the offender is incarcerated, at the rate applicable to civil judgments (which is currently 12 percent per year).

Generally, the Department of Corrections (DOC) is responsible for monitoring and enforcing offenders' sentences with regard to LFOs. All collections must be remitted daily to the county clerk for disbursements. Upon receipt of an offender's LFO payment, restitution must be paid first prior to any payments of any other monetary obligations. After restitution is satisfied, the county clerk is required to distribute the payment proportionally among all other fines, costs, and assessments imposed (with the exception of incarceration costs), unless otherwise ordered by the court. Incarceration costs, if required, are paid last.

Community Corrections. The terms community supervision, community placement, and community custody, essentially all refer to supervision following release from incarceration. Community supervision is a technical term in the Sentencing Reform Act and includes up to one year in the county jail and one year of supervision in the community. The other terms refer to supervision in the community following completion of a prison sentence and were devised in part to indicate when the DOC could sanction an offender for violating conditions of release administratively, and when the DOC had to return to court to ask the court to impose sanctions.

Summary of Substitute Bill:

For offenses committed on or after July 1, 2003, interest will not accrue on LFOs while an offender is in total confinement in a state, out-of-state, or federal correctional institution. Total confinement does not include any period of total confinement that is due to a violation of community custody, community placement, or community supervision.

Substitute Bill Compared to Original Bill:

The original bill allows for the suspension of interest on LFOs during the time when an offender is incarcerated in an institution. The substitute bill will not allow for that interest to be suspended anytime the person is incarcerated due to a parole violation.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: How do we reintegrate persons who have been convicted of felonious crimes back into the community? One way to help such a person is to start the clock ticking on interest payments when the person is actually able to start paying back his or her LFO payments which is when they are released from incarceration.

The courts of this state spend endless hours and dollars just monitoring and enforcing LFOs each year. This bill codifies what used to be the practice of many judges a long time ago. It is seeking to eliminate the enormous interest rates that offenders owe and may never be able to pay. The interest rate on LFO payments is currently 12 percent which is far more than a person would pay on a student loan or even on a credit card payment. Because of the very large amounts of interest that are annually tacked on to LFOs that need to be paid-off in full, many people (an estimated 150,000 in the State of Washington) will never be able to get their civil rights restored such as voting privileges. Many of these offenders who are released from incarceration are disabled and their only source of income is public benefits.

This bill will not hurt the other legal financial obligations that an offender owes or the entities that receive money from such payments. This bill does not in any fashion excuse, eliminate, or void a person's LFO that they may owe.

(With Concerns) Currently there is not an automated way to track when an offender goes in and out of custody and as a result this bill would significantly increase the workload for county clerks across the state.

Testimony Against: Although the DOC may be able to inform the Administrator of the Courts on a regular basis when a person reenters or leaves a prison, there is still no way of tracking when a person is re-incarcerated in a jail or in an out-of-state facility. This committee may want to consider other bills that are currently working their way through the Legislature which would eliminate or reduce the interest on LFOs when a person is making significant efforts in trying to repay his or her LFOs. It would be easier for county clerks if the Legislature would consider eliminating interest altogether on LFOs.

It used to be the practice of superior court judges to waive interest; however, it had to be done manually by county clerks. Eliminating interest should be a judicial discretion or left up to each individual offender's responsibility to request relief on an individual basis. Collection agencies in Washington also offer amnesty programs that wipe out all the interest on LFOs if the principal is paid in full, but it is the responsibility of the offender

to request this particular service.

Testified: (In support) Representative Darneille, prime sponsor; Kimberly Gordon, Washington Defender Association and Washington Association of Criminal Defense Lawyers; and Jerry Sheehan, American Civil Liberties Union of Washington.

(Concerns) Barb Miner, Washington State Association of County Clerks.

(Opposed) Debbie Wilke, Washington Association of County Officials; and Vickie Smith, Washington Collection Agency.