

HOUSE BILL REPORT

SSB 5168

As Reported by House Committee On:
Judiciary

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

Brief Description: Authorizing reduction of interest on legal financial obligations.

Sponsors: Senator Hargrove.

Brief History:

Committee Activity:

Judiciary: 2/19/04, 2/27/04 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Provides that a court may waive or reduce interest on a criminal offender's legal financial obligations under certain circumstances.
- Requires an offender who is not supervised by the Department of Corrections to notify the court when he or she has completed the non-legal financial obligation conditions of his or her sentence, and requires the clerk to notify the court when an offender has completed the financial obligation requirements of the sentence.
- Clarifies that the court clerk may set the monthly legal financial obligation payment, and allows the clerk to access the records of the employment security department to verify employment and income and seek wage assignments.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Edie Adams (786-7180).

Background:

When a defendant is convicted of a crime, the court may impose financial obligations as part of the judgment and sentence. Legal financial obligations that may be imposed on a defendant include: victim restitution; crime victims' compensation fees; court costs; court-appointed attorneys' fees and costs of defense; fines; and other costs associated with the offense or sentence. An offender's payments towards a legal financial obligation are applied first to restitution, and then proportionally to other monetary obligations after restitution has been satisfied.

Judgments for legal financial obligations bear interest from the date of judgment at the same rate that is applicable to civil judgments. The rate of interest 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 criminal financial obligation judgments for at least the last decade. Interest that accrues on the restitution portion of the financial obligation is paid to the victim of the offense. All other interest accruing on the judgment is split between the state and the county as follows: 25 percent to the state for the public safety and education account; 25 percent to the state for the judicial information system account; and 50 percent to the county current expense fund, 25 percent of which must be used to fund local courts.

In 2003, the Legislature shifted responsibility for collecting an offender's legal financial obligations from the Department of Corrections (DOC) to the county clerks during any period the offender is not under DOC supervision. The 2003 legislation also eliminated supervision of most offenders who are ranked by the DOC in the lowest two risk categories.

The county clerk is authorized to collect unpaid legal financial obligations at any time for an offender who remains under the jurisdiction of the court for purposes of his or her legal financial obligations. When an offender is not subject to a supervision order in the community, or if the offender has not paid all financial obligations at the end of his or her term of supervision, the DOC must notify the Administrative Office of the Courts (AOC) of the termination of the offender's supervision and provide information to enable the county clerk to collect the remaining legal financial obligations.

When an offender has completed the non-legal financial obligation requirements of his or her sentence, the DOC provides the county clerk with a notice that the offender has completed all the non-financial requirements of the sentence. When the offender completes payment of the legal financial obligations, the county clerk notifies the court, and includes the notice from the DOC. The court then issues a certificate of discharge for the offense to the offender.

Summary of Amended Bill:

An offender who has made a good faith effort to pay legal financial obligations may

petition the court to reduce or waive the interest on the obligation as an incentive for the offender to pay the principal. The court may grant the petition only if the offender shows:

- a good faith effort to pay;
- interest accrual is causing a significant hardship;
- an inability to pay both the principal and interest; and
- that reduction or waiver of interest will enable full payment.

"Good faith effort" means that the offender has either paid the principal amount in full or has made 24 consecutive monthly payments under a payment plan agreement with the court. Mandatory deductions by the Department of Corrections may not be used in meeting the 24 consecutive monthly payment requirement.

Interest on the restitution portion of a legal financial obligation judgment may be waived or reduced only if the offender has paid the restitution principal in full. The court may establish a payment schedule and retain jurisdiction over the offender to review and revise the reduction or waiver of interest.

When an offender who is subject to sentence requirements is not supervised by the DOC or does not complete the sentence requirements at the end of supervision, the offender is responsible for notifying the court when he or she has completed requirements of the sentence other than legal financial obligation (LFO) requirements. The county clerk must notify the court when the LFO obligation has been satisfied. The court must discharge the offender once the court receives these two notifications.

The county clerk may set the monthly amount of an offender's LFO payment if the DOC is not supervising the offender and the amount has not been set by the court. The county clerk may access the records of the employment security department to verify employment and income and to seek wage assignments.

Amended Bill Compared to Substitute Bill:

The amended bill allows the waiver of restitution interest, not just the reduction of restitution interest, if the restitution principal has been paid in full.

The amended bill adds the provisions of SB 6588 relating to: requiring an offender who is not supervised by the DOC to notify the court when he or she has completed the non-LFO conditions of his or her sentence; requiring the clerk to notify the court when an offender has completed the LFO requirements of the sentence; requiring the court to issue a discharge upon receipt of these two notices; allowing the clerk to set the monthly LFO payment if it has not been set by the court or the DOC; and allowing the clerk to access the records of the employment security department to verify employment and income and to seek wage assignments.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: It is important to have a fair and effective criminal justice system and find ways to safely rehabilitate and return offenders to the community. One of the major hurdles in this area is an offender's legal financial obligations. For many offenders, the financial obligations become an overwhelming amount that can't be met. If an offender is unable to pay the obligation, the offender is not only unable to get back on his or her feet, but also is unable to regain the right to vote, since the financial obligation is a condition of the sentence.

Testimony Against: There are portions of the bill with merit, but there are concerns with some of its provisions. The bill takes away some of the discretion of the court. The judge is in the best position to determine whether a person is making a good faith effort to make payments and is unduly burdened by interest charges. The restitution portion of a judgment is sometimes not calculated until long after the judgment is entered, and it can be a significant burden for the interest to accrue before the restitution amount has been entered. Another concern with the bill is that it does not allow the judge to waive the interest on the restitution interest. The judge should be left with the discretion to waive restitution interest if the principal has been paid and the other factors in the bill have been met.

Persons Testifying: (In support) Eve Rickert, Friends Committee on Washington State Public Policy.

(Opposed) Michael Hanbey, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.