

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: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senator Hargrove).

Brief History:

Committee Activity:

Judiciary: 3/27/03, 3/28/03 [DP].

Brief Summary of Substitute Bill

- Provides that a court may waive or reduce interest on legal financial obligations under certain circumstances.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. 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. 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 financial obligations in criminal proceedings 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.

Summary of 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 not be waived, but may be reduced 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.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: None.

Testimony Against: The court already has the discretion to waive interest at the time of the sentence, and judges regularly do this without prosecutor objection. This bill takes away that discretion, and limits a judge's authority to waive interest only after the offender's release from confinement. At that point, the offender is no longer represented by counsel, and the offender's financial ability to pay is unlikely to have improved while confined. The court should be able to make the decision as to whether or not to waive interest at the time of the sentence when the court has all relevant information about the offender and the offender is represented by counsel. The good faith standard in the bill is too onerous to be met. It is a rare offender who can pay the entire principal or have made 24 consecutive payments right out of prison.

Testified: Chris Jackson, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.