

# FINAL BILL REPORT

## ESSB 6472

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### C 120 L 04

Synopsis as Enacted

**Brief Description:** Revising provisions relating to victims of crime.

**Sponsors:** Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, McAuliffe, Esser, Regala, Stevens and Kohl-Welles; by request of Department of Community, Trade, and Economic Development).

**Senate Committee on Children & Family Services & Corrections**  
**House Committee on Juvenile Justice & Family Law**

**Background:** Currently, victims, survivors of victims, and witnesses of crimes committed by adults have statutory rights, including notification of criminal proceedings and the right to participate in them, protection from harm for cooperating with law enforcement, the right to have a crime victim advocate from a crime victim/witness program present at interviews and court proceedings, and payment of restitution from the defendant. Victims of juvenile offenders are not specifically given these rights by statute. Concern exists that provisions regarding victims' rights and restitution are not consistent in adult and juvenile courts, and that victims may be treated differently depending on the age and status of the person who committed the crime against them.

The Washington Supreme Court in *State of Washington v. J.P.*, 149 Wn.2d 444 (2003), identified an inconsistency in statutes regarding restitution available to victims of juvenile offenders. RCW 13.40.190, which contains requirements for disposition orders and restitution, allows restitution for counseling costs "reasonably related to the offense." In 1990, the definition of restitution in RCW 13.40.020(22) was expanded to include "costs of the victim's counseling reasonably related to the offense if the offense is a sex offense." After interpreting legislative intent, the court ruled that juvenile offenders can only be ordered to pay counseling costs for victims of sex offenses, not for victims of all offenses, thereby precluding the award of restitution for counseling costs for a victim of assault in the fourth degree with sexual motivation.

Restitution is not mandatory in diversion agreements in juvenile court. If restitution is not paid, the court can relieve the juvenile of an obligation to pay restitution if the juvenile is unable to pay. The court can modify the amount of a restitution order for both juvenile offenders and for juveniles subject to diversion. Juvenile offenders who are prosecuted through the formal court system are required to pay restitution.

**Summary:** Victims, survivors of victims, and witnesses of crimes committed by juveniles are given the same rights as victims of adult offenders. Victims of both adult and juvenile violent and sexual offenders are entitled to have a support person of the victim's choosing attend witness interviews and judicial proceedings so long as they do not unnecessarily delay the investigation and prosecution of the crime. Victims of a juvenile in a diversion program must

be advised of the diversion process and given forms for victim impact letters and restitution claims.

The same definition of "victim" is added to the chemical dependency disposition alternative for juvenile offenders and to juvenile restitution provisions. "Victim" includes any person who has sustained emotional, psychological, physical, or financial injury as a direct result of the crime, as well as a known parent or guardian of a minor victim or of a victim who is not a minor but is incapacitated, incompetent, disabled, or deceased.

Legislative intent regarding restitution for juvenile offenders is clarified. Restitution for counseling costs reasonably related to the offense is authorized for victims of all juvenile offenses, not just for sex offenses.

Judges are given discretion to relieve a juvenile offender of an obligation to pay restitution to an insurance provider if the juvenile does not have the means to pay and could not reasonably acquire the means to pay over a ten-year period. Judges are also given discretion to relieve juveniles of the requirement to pay restitution in diversion cases, and if that relief is granted, the court may order an appropriate amount of community restitution (compulsory service for the benefit of the community). Unlike a fine or monetary penalty, the crime victim penalty assessment required of juvenile offenders cannot be converted to community restitution.

Language governing orders in dispositions involving sex offender treatment is clarified to ensure that a court must order that an offender shall not attend the same school as the victim or the victim's siblings.

**Votes on Final Passage:**

Senate 48 0  
House 96 0 (House amended)  
Senate 46 0 (Senate concurred)

**Effective:** July 1, 2004