

---

SENATE BILL 6002

---

State of Washington

58th Legislature

2003 Regular Session

By Senators Stevens and Hargrove

Read first time 02/28/2003. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to collection of offenders' financial obligations;  
2 amending RCW 9.94A.760, 9.94A.780, and 4.56.100; adding a new section  
3 to chapter 9.94A RCW; providing an effective date; and declaring an  
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9.94A.760 and 2001 c 10 s 3 are each amended to read  
7 as follows:

8 (1) Whenever a person is convicted of a felony, the court may order  
9 the payment of a legal financial obligation as part of the sentence.  
10 The court must on either the judgment and sentence or on a subsequent  
11 order to pay, designate the total amount of a legal financial  
12 obligation and segregate this amount among the separate assessments  
13 made for restitution, costs, fines, and other assessments required by  
14 law. On the same order, the court is also to set a sum that the  
15 offender is required to pay on a monthly basis towards satisfying the  
16 legal financial obligation. If the court fails to set the offender  
17 monthly payment amount, the department shall set the amount. Upon  
18 receipt of an offender's monthly payment, restitution shall be paid  
19 prior to any payments of other monetary obligations. After restitution

1 is satisfied, the county clerk shall distribute the payment  
2 proportionally among all other fines, costs, and assessments imposed,  
3 unless otherwise ordered by the court.

4 (2) If the court determines that the offender, at the time of  
5 sentencing, has the means to pay for the cost of incarceration, the  
6 court may require the offender to pay for the cost of incarceration at  
7 a rate of fifty dollars per day of incarceration. Payment of other  
8 court-ordered financial obligations, including all legal financial  
9 obligations and costs of supervision shall take precedence over the  
10 payment of the cost of incarceration ordered by the court. All funds  
11 recovered from offenders for the cost of incarceration in the county  
12 jail shall be remitted to the county and the costs of incarceration in  
13 a prison shall be remitted to the department.

14 (3) The court may add to the judgment and sentence or subsequent  
15 order to pay a statement that a notice of payroll deduction is to be  
16 issued immediately. If the court chooses not to order the immediate  
17 issuance of a notice of payroll deduction at sentencing, the court  
18 shall add to the judgment and sentence or subsequent order to pay a  
19 statement that a notice of payroll deduction may be issued or other  
20 income-withholding action may be taken, without further notice to the  
21 offender if a monthly court-ordered legal financial obligation payment  
22 is not paid when due, and an amount equal to or greater than the amount  
23 payable for one month is owed.

24 If a judgment and sentence or subsequent order to pay does not  
25 include the statement that a notice of payroll deduction may be issued  
26 or other income-withholding action may be taken if a monthly legal  
27 financial obligation payment is past due, the department or the county  
28 clerk may serve a notice on the offender stating such requirements and  
29 authorizations. Service shall be by personal service or any form of  
30 mail requiring a return receipt.

31 (4) Independent of the department or the county clerk, the party or  
32 entity to whom the legal financial obligation is owed shall have the  
33 authority to use any other remedies available to the party or entity to  
34 collect the legal financial obligation. These remedies include  
35 enforcement in the same manner as a judgment in a civil action by the  
36 party or entity to whom the legal financial obligation is owed.  
37 Restitution collected through civil enforcement must be paid through  
38 the registry of the court and must be distributed proportionately

1 according to each victim's loss when there is more than one victim.  
2 The judgment and sentence shall identify the party or entity to whom  
3 restitution is owed so that the state, party, or entity may enforce the  
4 judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or  
5 9.94A.753(6) to a victim of rape of a child or a victim's child born  
6 from the rape, the Washington state child support registry shall be  
7 identified as the party to whom payments must be made. Restitution  
8 obligations arising from the rape of a child in the first, second, or  
9 third degree that result in the pregnancy of the victim may be enforced  
10 for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6).  
11 All other legal financial obligations for an offense committed prior to  
12 July 1, 2000, may be enforced at any time during the ten-year period  
13 following the offender's release from total confinement or within ten  
14 years of entry of the judgment and sentence, whichever period ends  
15 later. Prior to the expiration of the initial ten-year period, the  
16 superior court may extend the criminal judgment an additional ten years  
17 for payment of legal financial obligations including crime victims'  
18 assessments. All other legal financial obligations for an offense  
19 committed on or after July 1, 2000, may be enforced at any time the  
20 offender remains under the court's jurisdiction. For an offense  
21 committed on or after July 1, 2000, the court shall retain jurisdiction  
22 over the offender, for purposes of the offender's compliance with  
23 payment of the legal financial obligations, until the obligation is  
24 completely satisfied, regardless of the statutory maximum for the  
25 crime. The department (~~(of corrections shall)~~) may only supervise the  
26 offender's compliance with payment of the legal financial obligations  
27 (~~(for ten years following the entry of the judgment and sentence, or~~  
28 ~~ten years following the offender's release from total confinement,~~  
29 ~~whichever period ends later)~~) during any period in which the department  
30 is authorized to supervise the offender in the community under RCW  
31 9.94A.728 and section 4, chapter . . . (Senate Bill No. 5990), Laws of  
32 2003 and the department shall supervise the offender's compliance  
33 during any such period. The department is not responsible for  
34 supervision of the offender during any subsequent period of time the  
35 offender remains under the court's jurisdiction. The county clerk is  
36 authorized to collect unpaid legal financial obligations at any time  
37 the offender remains under the jurisdiction of the court for purposes  
38 of his or her legal financial obligations.

1 (5) In order to assist the court in setting a monthly sum that the  
2 offender must pay during the period of supervision, the offender is  
3 required to report to the department for purposes of preparing a  
4 recommendation to the court. When reporting, the offender is required,  
5 under oath, to respond truthfully and honestly to all questions  
6 concerning present, past, and future earning capabilities and the  
7 location and nature of all property or financial assets. The offender  
8 is further required to bring all documents requested by the department.

9 (6) After completing the investigation, the department shall make  
10 a report to the court on the amount of the monthly payment that the  
11 offender should be required to make towards a satisfied legal financial  
12 obligation.

13 (7)(a) During the period of supervision, the department may make a  
14 recommendation to the court that the offender's monthly payment  
15 schedule be modified so as to reflect a change in financial  
16 circumstances. If the department sets the monthly payment amount, the  
17 department may modify the monthly payment amount without the matter  
18 being returned to the court. During the period of supervision, the  
19 department may require the offender to report to the department for the  
20 purposes of reviewing the appropriateness of the collection schedule  
21 for the legal financial obligation. During this reporting, the  
22 offender is required under oath to respond truthfully and honestly to  
23 all questions concerning earning capabilities and the location and  
24 nature of all property or financial assets. The offender shall bring  
25 all documents requested by the department in order to prepare the  
26 collection schedule.

27 (b) Subsequent to any period of supervision, or if the department  
28 is not authorized to supervise the offender in the community, the  
29 county clerk may make a recommendation to the court that the offender's  
30 monthly payment schedule be modified so as to reflect a change in  
31 financial circumstances. If the county clerk sets the monthly payment  
32 amount, the clerk may modify the monthly payment amount without the  
33 matter being returned to the court. During the period of repayment,  
34 the county clerk may require the offender to report to the clerk of the  
35 purpose of reviewing the appropriateness of the collection schedule for  
36 the legal financial obligation. During this reporting, the offender is  
37 required under oath to respond truthfully and honestly to all questions  
38 concerning earning capabilities and the location and nature of all

1 property or financial assets. The offender shall bring all documents  
2 requested by the county clerk in order to prepare the collection  
3 schedule.

4 (8) After the judgment and sentence or payment order is entered,  
5 the department is authorized, for any period of supervision, to collect  
6 the legal financial obligation from the offender. Subsequent to any  
7 period of supervision or, if the department is not authorized to  
8 supervise the offender in the community, the county clerk is authorized  
9 to collect unpaid legal financial obligations from the offender. Any  
10 amount collected by the department shall be remitted daily to the  
11 county clerk for the purpose of disbursements. The department (~~is~~)  
12 and the county clerks are authorized, but not required, to accept  
13 credit cards as payment for a legal financial obligation, and any costs  
14 incurred related to accepting credit card payments shall be the  
15 responsibility of the offender.

16 (9) The department or any obligee of the legal financial obligation  
17 may seek a mandatory wage assignment for the purposes of obtaining  
18 satisfaction for the legal financial obligation pursuant to RCW  
19 9.94A.7701. Any party obtaining a wage assignment shall notify the  
20 county clerk. The county clerks shall notify the department, or the  
21 administrative office of the courts, whichever is providing the monthly  
22 billing for the offender.

23 (10) The requirement that the offender pay a monthly sum towards a  
24 legal financial obligation constitutes a condition or requirement of a  
25 sentence and the offender is subject to the penalties for noncompliance  
26 as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

27 (11) During any period in which the department is supervising the  
28 offender in the community, the department shall mail individualized  
29 monthly billings to the address known by the department for each  
30 offender with an unsatisfied legal financial obligation. The billing  
31 shall direct payments, other than the cost of supervision assessments  
32 under RCW 9.94A.780 to the county clerk, and payment of cost of  
33 supervision assessments to the department. Subsequent to any period of  
34 supervision or, if the department is not authorized to supervise the  
35 offender in the community, the administrative office of the courts  
36 shall mail individualized monthly billings to the address known by the  
37 office for each offender with an unsatisfied legal financial obligation  
38 who is not under supervision by the department. The county clerk shall

1 provide the (~~department with individualized monthly billings for each~~  
2 ~~offender with an unsatisfied legal financial obligation and shall~~  
3 ~~provide the department~~) administrative office of the courts with  
4 notice of payments by such offenders no less frequently than weekly.  
5 The county clerks, the administrative office of the courts, and the  
6 department shall maintain agreements to implement this subsection.

7 (12) The department may arrange for the collection of unpaid legal  
8 financial obligations during any period of supervision in the community  
9 through the county clerk, or through another entity if the clerk does  
10 not assume responsibility for collection. The costs for collection  
11 services shall be paid by the offender.

12 (13) Nothing in this chapter makes the department, the state, the  
13 counties, or any (~~of its~~) state or county employees, agents, or other  
14 persons acting on their behalf liable under any circumstances for the  
15 payment of these legal financial obligations.

16 NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW  
17 to read as follows:

18 If an offender with an unsatisfied legal financial obligation is  
19 not subject to supervision by the department for a term of community  
20 placement, community custody, or community supervision, or has not  
21 completed payment of all legal financial obligations included in the  
22 sentence at the expiration of his or her term of community placement,  
23 community custody, or community supervision, the department shall  
24 notify the administrative office of the courts of the offender's  
25 remaining unpaid obligations and provide information to the  
26 administrative office of the courts to enable the county clerk to  
27 monitor payment of the remaining obligations. The county clerk is  
28 authorized to monitor payment after such notification. The secretary  
29 of corrections and the administrator for the courts shall enter into an  
30 interagency agreement to facilitate the electronic transfer of  
31 information about offenders, unpaid obligations, and payees to carry  
32 out the purposes of this section.

33 **Sec. 3.** RCW 9.94A.780 and 1991 c 104 s 1 are each amended to read  
34 as follows:

35 (1) Whenever a punishment imposed under this chapter requires  
36 supervision services to be provided, the offender shall pay to the

1 department of corrections the monthly assessment, prescribed under  
2 subsection (2) of this section, which shall be for the duration of the  
3 terms of supervision and which shall be considered as payment or part  
4 payment of the cost of providing supervision to the offender. The  
5 department may exempt or defer a person from the payment of all or any  
6 part of the assessment based upon any of the following factors:

7 (a) The offender has diligently attempted but has been unable to  
8 obtain employment that provides the offender sufficient income to make  
9 such payments.

10 (b) The offender is a student in a school, college, university, or  
11 a course of vocational or technical training designed to fit the  
12 student for gainful employment.

13 (c) The offender has an employment handicap, as determined by an  
14 examination acceptable to or ordered by the department.

15 (d) The offender's age prevents him or her from obtaining  
16 employment.

17 (e) The offender is responsible for the support of dependents and  
18 the payment of the assessment constitutes an undue hardship on the  
19 offender.

20 (f) Other extenuating circumstances as determined by the  
21 department.

22 (2) The department of corrections shall adopt a rule prescribing  
23 the amount of the assessment. The department may, if it finds it  
24 appropriate, prescribe a schedule of assessments that shall vary in  
25 accordance with the intensity or cost of the supervision. The  
26 department may not prescribe any assessment that is less than ten  
27 dollars nor more than fifty dollars.

28 (3) All amounts required to be paid under this section shall be  
29 collected by the department of corrections and deposited by the  
30 department in the dedicated fund established pursuant to RCW 72.11.040.

31 (4) This section shall not apply to probation services provided  
32 under an interstate compact pursuant to chapter 9.95 RCW or to  
33 probation services provided for persons placed on probation prior to  
34 June 10, 1982.

35 (5) If a county clerk assumes responsibility for collection of  
36 unpaid legal financial obligations under RCW 9.94A.760, or under any  
37 agreement with the department under that section, whether before or  
38 after the completion of any period of community placement, community

1 custody, or community supervision, the clerk may impose a monthly or  
2 annual assessment for the cost of collections. The amount of the  
3 assessment shall not exceed the actual cost of collections. The county  
4 clerk may exempt or defer payment of all or part of the assessment  
5 based upon any of the factors listed in subsection (1) of this section.  
6 The offender shall pay the assessment under this subsection to the  
7 county clerk who shall apply it to the cost of collecting legal  
8 financial obligations under RCW 9.94A.760.

9       **Sec. 4.** RCW 4.56.100 and 1997 c 358 s 4 are each amended to read  
10 as follows:

11       (1) When any judgment for the payment of money only shall have been  
12 paid or satisfied, the clerk of the court in which such judgment was  
13 rendered shall note upon the record in the execution docket  
14 satisfaction thereof giving the date of such satisfaction upon either  
15 the payment to such clerk of the amount of such judgment, costs and  
16 interest and any accrued costs by reason of the issuance of any  
17 execution, or the filing with such clerk of a satisfaction entitled in  
18 such action and identifying the same executed by the judgment creditor  
19 or his or her attorney of record in such action or his or her assignee  
20 acknowledged as deeds are acknowledged. The clerk has the authority to  
21 note the satisfaction of judgments for criminal and juvenile legal  
22 financial obligations when the clerk's record indicates payment in full  
23 or as directed by the court. Every satisfaction of judgment and every  
24 partial satisfaction of judgment which provides for the payment of  
25 money shall clearly designate the judgment creditor and his or her  
26 attorney if any, the judgment debtor, the amount or type of  
27 satisfaction, whether the satisfaction is full or partial, the cause  
28 number, and the date of entry of the judgment. A certificate by such  
29 clerk of the entry of such satisfaction by him or her may be filed in  
30 the office of the clerk of any county in which an abstract of such  
31 judgment has been filed. When so satisfied by the clerk or the filing  
32 of such certificate the lien of such judgment shall be discharged.

33       (2) The department of social and health services shall file a  
34 satisfaction of judgment for welfare fraud conviction if a person does  
35 not pay money through the clerk as required under subsection (1) of  
36 this section.



1       (~~(3) The department of corrections shall file a satisfaction of~~  
2 ~~judgment if a person does not pay money through the clerk's office as~~  
3 ~~required under subsection (1) of this section.))~~

4       NEW SECTION.   **Sec. 5.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8       NEW SECTION.   **Sec. 6.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and takes effect  
11 July 1, 2003.

--- END ---