

HOUSE BILL REPORT

SSB 5190

As Reported by House Committee On:
Judiciary

Title: An act relating to the collection of legal financial obligations.

Brief Description: Modifying provisions relating to the collection of legal financial obligations.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, McCaslin and Shin).

Brief History:

Committee Activity:

Judiciary: 3/20/07, 3/30/07 [DP].

Brief Summary of Substitute Bill

- Expands the mandatory deductions from funds received by an inmate sentenced to death or life imprisonment without the possibility of release to include deductions for legal financial obligations and child support obligations.
- Allows the Department of Corrections to exempt an inmate from the requirement of an inmate savings account if the inmate's earliest release date is beyond the inmate's life expectancy.
- Prohibits a fee for providing a county clerk or court a certified copy of a death certificate for an offender in order to extinguish the offender's legal financial obligations.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Edie Adams (786-7180).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When a defendant is convicted of a crime, the court may impose legal 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 compliance with legal financial obligations is supervised by the Department of Corrections (DOC) during any period the offender is incarcerated or under the DOC supervision after release, and then by the county clerk for the remaining period the offender is under the jurisdiction of the court. The Sentencing Reform Act provides that the state and the party to whom the legal financial obligation is owed may enforce the obligation in the same manner as any other judgment in a civil action.

When an inmate of a state prison receives funds, the funds are subject to certain mandatory deductions and priorities established in statute. These deductions vary depending on the types of funds received. The deductions from funds received by an inmate from sources other than wages or legal settlements or awards are:

- 5 percent to the Public Safety and Education Account (PSEA) for the purpose of crime victims' compensation;
- 10 percent to the personal inmate savings account;
- 20 percent to the DOC to contribute to the costs of incarceration;
- 20 percent for payment of legal financial obligations owed by the inmate; and
- 15 percent for any child support owed under a support order.

Funds received by inmates from legal settlements or awards are subject to the following deductions:

- 5 percent for the PSEA for crime victims compensation;
- 10 percent to the DOC for the inmate savings account;
- 20 percent to the DOC for costs of incarceration; and
- 20 percent for payment of legal financial obligations.

When an inmate who is sentenced to death or to life imprisonment without the possibility of release receives funds, including funds from a legal settlement or award, the funds are not subject to the mandatory deductions for the inmate savings account or for the payment of legal financial obligations. The DOC has a policy of imposing a 20 percent deduction for legal financial obligations from the non-wage funds received by inmates who are sentenced to death or to life imprisonment despite the fact that the mandatory deduction statute does not list legal financial obligations as one of the mandatory deductions from these funds. The DOC bases its authority to impose legal financial obligation deductions from these funds on another provision of law governing an offender's responsibility for legal financial obligations (Chapter 72.11 RCW). This chapter of law generally provides the DOC with authority to disburse money from an inmate's personal account for the purpose of satisfying a court-ordered legal financial obligation, as long as the disbursements do not reduce the inmate's account below the level of indigency.

The DOC policy of imposing the 20 percent legal financial obligation deduction on non-wage funds received by inmates sentenced to death or to life imprisonment was challenged by two inmates sentenced to life imprisonment. In the case *Anderson v. State*, the Washington Supreme Court upheld the DOC policy in a five to four decision. The majority reconciled the two potentially conflicting statutes by finding that the mandatory deduction statute specifies a list of mandatory deductions that the DOC must impose, while the chapter dealing with an offender's responsibility for legal financial obligations grants the Secretary of the DOC the discretionary authority to impose additional deductions for legal financial obligations.

Summary of Bill:

The deductions required for funds received by an inmate sentenced to death or life imprisonment without possibility of release are expanded to include: a 20 percent deduction for the payment of legal financial obligations from any funds, including legal settlements or awards; and a 15 percent deduction for child support obligations from funds received from legal settlements or awards.

The Secretary of the DOC is given authority to exempt an inmate from the requirement of an inmate savings account if the inmate's earliest release date is beyond the inmate's life expectancy.

A statement is made that nothing in the statute governing mandatory deductions from inmate funds limits the authority of the county clerk or a restitution recipient from collecting against an inmate's money, assets, or property.

The Department of Health may not charge a fee for providing a county clerk or court a certified copy of a death certificate for an offender if the request is for the purpose of extinguishing the offender's legal financial obligation.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There are three important parts to this bill that will bring better consistency to collection of legal financial obligations. First, the bill makes offenders sentenced to life imprisonment or to death subject to the same deductions that apply to other inmates. There are currently approximately 530 inmates who are sentenced to life imprisonment or death that would be affected by this change. Second, the bill specifically empowers county clerks to take collection action against an inmate's assets in order to collect legal financial obligations. Finally, the bill exempts clerks from the \$17 charge for certified copies of death certificates.

Law enforcement already has this exemption for keeping their sex offender records up-to-date.

(Opposed) None.

Persons Testifying: Ruth Gordon, Washington Association of County Clerks.

Persons Signed In To Testify But Not Testifying: None.