
HOUSE BILL 2905

State of Washington

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By Representatives Kelley, Schindler, Simpson, Eddy, Takko, Crouse, McCune, Sump, Pearson, Ericks, O'Brien, Warnick, VanDeWege, and Hurst

Read first time 01/17/08. Referred to Committee on Judiciary.

1 AN ACT Relating to requiring restitution to public safety agencies
2 for costs incurred responding to criminal activity; and amending RCW
3 9.94A.750.

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

5 **Sec. 1.** RCW 9.94A.750 and 2003 c 379 s 15 are each amended to read
6 as follows:

7 This section applies to offenses committed on or before July 1,
8 1985.

9 (1) If restitution is ordered, the court shall determine the amount
10 of restitution due at the sentencing hearing or within one hundred
11 eighty days. The court may continue the hearing beyond the one hundred
12 eighty days for good cause. The court shall then set a minimum monthly
13 payment that the offender is required to make towards the restitution
14 that is ordered. The court should take into consideration the total
15 amount of the restitution owed, the offender's present, past, and
16 future ability to pay, as well as any assets that the offender may
17 have.

18 (2) During the period of supervision, the community corrections
19 officer may examine the offender to determine if there has been a

1 change in circumstances that warrants an amendment of the monthly
2 payment schedule. The community corrections officer may recommend a
3 change to the schedule of payment and shall inform the court of the
4 recommended change and the reasons for the change. The sentencing
5 court may then reset the monthly minimum payments based on the report
6 from the community corrections officer of the change in circumstances.

7 (3) Except as provided in subsection (6) of this section,
8 restitution ordered by a court pursuant to a criminal conviction shall
9 be based on easily ascertainable damages for injury to or loss of
10 property, actual expenses incurred for treatment for injury to persons,
11 ~~((and))~~ lost wages resulting from injury, and reimbursement of costs to
12 a public safety agency for investigation, arrest, detention, fire
13 suppression, or emergency medical services. For purposes of this
14 subsection, "public safety agency" means a general authority Washington
15 law enforcement agency as defined in RCW 10.93.020, except "general
16 authority Washington law enforcement agency" does not include the
17 department of fish and wildlife, and any county, city, town, public
18 hospital district, fire protection district, regional fire protection
19 service authority, or emergency medical service district. Restitution
20 shall not include reimbursement for damages for mental anguish, pain
21 and suffering, or other intangible losses, but may include the costs of
22 counseling reasonably related to the offense. The amount of
23 restitution shall not exceed double the amount of the offender's gain
24 or the victim's loss from the commission of the offense.

25 (4) For the purposes of this section, the offender shall remain
26 under the court's jurisdiction for a term of ten years following the
27 offender's release from total confinement or ten years subsequent to
28 the entry of the judgment and sentence, whichever period is longer.
29 Prior to the expiration of the initial ten-year period, the superior
30 court may extend jurisdiction under the criminal judgment an additional
31 ten years for payment of restitution. The portion of the sentence
32 concerning restitution may be modified as to amount, terms and
33 conditions during either the initial ten-year period or subsequent ten-
34 year period if the criminal judgment is extended, regardless of the
35 expiration of the offender's term of community supervision and
36 regardless of the statutory maximum sentence for the crime. The court
37 may not reduce the total amount of restitution ordered because the
38 offender may lack the ability to pay the total amount. The offender's

1 compliance with the restitution shall be supervised by the department
2 only during any period which the department is authorized to supervise
3 the offender in the community under RCW 9.94A.728, 9.94A.501, or in
4 which the offender is in confinement in a state correctional
5 institution or a correctional facility pursuant to a transfer agreement
6 with the department, and the department shall supervise the offender's
7 compliance during any such period. The department is responsible for
8 supervision of the offender only during confinement and authorized
9 supervision and not during any subsequent period in which the offender
10 remains under the court's jurisdiction. The county clerk is authorized
11 to collect unpaid restitution at any time the offender remains under
12 the jurisdiction of the court for purposes of his or her legal
13 financial obligations.

14 (5) Restitution may be ordered whenever the offender is convicted
15 of an offense which results in injury to any person or damage to or
16 loss of property or as provided in subsection (6) of this section. In
17 addition, restitution may be ordered to pay for an injury, loss, or
18 damage if the offender pleads guilty to a lesser offense or fewer
19 offenses and agrees with the prosecutor's recommendation that the
20 offender be required to pay restitution to a victim of an offense or
21 offenses which are not prosecuted pursuant to a plea agreement.

22 (6) Restitution for the crime of rape of a child in the first,
23 second, or third degree, in which the victim becomes pregnant, shall
24 include: (a) All of the victim's medical expenses that are associated
25 with the rape and resulting pregnancy; and (b) child support for any
26 child born as a result of the rape if child support is ordered pursuant
27 to a proceeding in superior court or administrative order for support
28 for that child. The clerk must forward any restitution payments made
29 on behalf of the victim's child to the Washington state child support
30 registry under chapter 26.23 RCW. Identifying information about the
31 victim and child shall not be included in the order. The offender
32 shall receive a credit against any obligation owing under the
33 administrative or superior court order for support of the victim's
34 child. For the purposes of this subsection, the offender shall remain
35 under the court's jurisdiction until the offender has satisfied support
36 obligations under the superior court or administrative order but not
37 longer than a maximum term of twenty-five years following the
38 offender's release from total confinement or twenty-five years

1 subsequent to the entry of the judgment and sentence, whichever period
2 is longer. The court may not reduce the total amount of restitution
3 ordered because the offender may lack the ability to pay the total
4 amount. The department shall supervise the offender's compliance with
5 the restitution ordered under this subsection.

6 (7) In addition to any sentence that may be imposed, an offender
7 who has been found guilty of an offense involving fraud or other
8 deceptive practice or an organization which has been found guilty of
9 any such offense may be ordered by the sentencing court to give notice
10 of the conviction to the class of persons or to the sector of the
11 public affected by the conviction or financially interested in the
12 subject matter of the offense by mail, by advertising in designated
13 areas or through designated media, or by other appropriate means.

14 (8) This section does not limit civil remedies or defenses
15 available to the victim or offender including support enforcement
16 remedies for support ordered under subsection (6) of this section for
17 a child born as a result of a rape of a child victim. The court shall
18 identify in the judgment and sentence the victim or victims entitled to
19 restitution and what amount is due each victim. The state or victim
20 may enforce the court-ordered restitution in the same manner as a
21 judgment in a civil action. Restitution collected through civil
22 enforcement must be paid through the registry of the court and must be
23 distributed proportionately according to each victim's loss when there
24 is more than one victim.

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