

SENATE BILL REPORT

SB 5146

As of February 5, 2010

Title: An act relating to interest on judgments entered against offenders.

Brief Description: Revising the accrual of interest on judgments entered against offenders.

Sponsors: Senators Kline, Regala, Pridemore, Kohl-Welles and Shin.

Brief History:

Committee Activity: Judiciary: 2/03/09, 2/13/09 [DPS].

Ways & Means: 2/25/09.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5146 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Kohl-Welles, Roach and Tom.

Staff: Brandon Roche (786-7405)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jenny Greenlee (786-7711)

Background: Under current law, courts may require offenders to pay certain costs, fines, and other assessments, in addition to restitution, for committing a crime. Interest on both restitution and non-restitution assessments may accrue while the offender is in confinement. Restitution is ordered whenever the offender is convicted for an offense which causes injury to a person, or damage to or loss of property.

The current interest rate applied is 12 percent.

Summary of Bill (Recommended Substitute): If an offender is sentenced to total confinement, interest on restitution owed by the offender accrues throughout the period of confinement, until payment. However, while in total confinement, interest on financial obligations other than restitution, such as costs, fines, and assessments, does not accrue until the date of the offender's release. If an offender is not sentenced to total confinement, all

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financial obligations imposed in a judgment must bear interest from the date of judgment until payment.

When an offender is released from total confinement, the Department of Corrections or the county jail must notify the clerk of the county in which the conviction occurred in order to calculate interest owed by the offender.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute): Directs that the interest is only to be suspended for the initial period of incarceration giving rise to the costs, fines, and assessments.

Appropriation: None.

Fiscal Note: Requested on February 2, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Judiciary): PRO: We are in favor of this bill. A study was recently released recognizing problems with the way legal financial obligations (LFO) are assessed in Washington. The state expends considerable expense on rehabilitating criminals. These LFOs may counteract that as some of these people have no way to pay their debt. People have to decide between paying for basic items and paying these debts. This bill will reduce the overwhelming aspect of the LFO and encourage them to pay. We like the fact that this bill separates out the restitution interest because victims have to pay interest on debts incurred as part of putting their lives back together.

OTHER: We have technical concerns. The counties don't want notifications from the Department of Corrections or local jail each time an offender is rearrested and re-released.

Persons Testifying (Judiciary): PRO: Gavin Thornton, Columbia Legal Services; Dave Johnson, Washington Coalition of Crime Victim Advocates.

OTHER: James McMahan, Washington Association of County Officials.

Staff Summary of Public Testimony on Substitute Bill (Ways & Means): PRO: (2009) We support this bill. Legal financial obligations can place financial pressure on offenders once they are out of prison. This pressure can push them back into the underground economy, creating additional costs in the judicial system. The bill is a good step towards relieving this pressure but does not go far enough. These obligations are being applied in a discriminatory way. Recent studies show that Hispanics have higher obligations than Caucasians. The next step will be to address the interest rate to be closer to the civil penalty rate.

OTHER: (2010) The county clerks do not have problems with the policy objective in this bill. However, the bill would result in 28,000 notices being sent from prisons and jails to

counties. Counties and jails are already under significant fiscal pressure and jails are experiencing layoffs. The clerks are concerned about the ability to enact this legislation.

Persons Testifying (Ways & Means): PRO: (2009) Beth Colgan, Columbia Legal Services; Bob Cooper, Washington Defenders Association, Washington Association of Criminal Defense Lawyers.

OTHER: (2010) Debbie Wilke, Washington Association of County Officials.