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**SUBSTITUTE HOUSE BILL 2487**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** House Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Rodne, Klippert, Green, Santos, Kessler, Llias, and Kelley)

READ FIRST TIME 01/26/10.

1       AN ACT Relating to increasing costs for administering a deferred  
2 prosecution; and amending RCW 10.01.160.

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

4       **Sec. 1.** RCW 10.01.160 and 2008 c 318 s 2 are each amended to read  
5 as follows:

6       (1) The court may require a defendant to pay costs. Costs may be  
7 imposed only upon a convicted defendant, except for costs imposed upon  
8 a defendant's entry into a deferred prosecution program, costs imposed  
9 upon a defendant for pretrial supervision, or costs imposed upon a  
10 defendant for preparing and serving a warrant for failure to appear.

11       (2) Costs shall be limited to expenses specially incurred by the  
12 state in prosecuting the defendant or in administering the deferred  
13 prosecution program under chapter 10.05 RCW or pretrial supervision.  
14 They cannot include expenses inherent in providing a constitutionally  
15 guaranteed jury trial or expenditures in connection with the  
16 maintenance and operation of government agencies that must be made by  
17 the public irrespective of specific violations of law. Expenses  
18 incurred for serving of warrants for failure to appear and jury fees  
19 under RCW 10.46.190 may be included in costs the court may require a

1 defendant to pay. Costs for administering a deferred prosecution  
2 (~~or~~) may not exceed two hundred fifty dollars. Costs for  
3 administering a pretrial supervision may not exceed one hundred fifty  
4 dollars. Costs for preparing and serving a warrant for failure to  
5 appear may not exceed one hundred dollars. Costs of incarceration  
6 imposed on a defendant convicted of a misdemeanor or a gross  
7 misdemeanor may not exceed the actual cost of incarceration. In no  
8 case may the court require the offender to pay more than one hundred  
9 dollars per day for the cost of incarceration. Payment of other court-  
10 ordered financial obligations, including all legal financial  
11 obligations and costs of supervision take precedence over the payment  
12 of the cost of incarceration ordered by the court. All funds received  
13 from defendants for the cost of incarceration in the county or city  
14 jail must be remitted for criminal justice purposes to the county or  
15 city that is responsible for the defendant's jail costs. Costs imposed  
16 constitute a judgment against a defendant and survive a dismissal of  
17 the underlying action against the defendant. However, if the defendant  
18 is acquitted on the underlying action, the costs for preparing and  
19 serving a warrant for failure to appear do not survive the acquittal,  
20 and the judgment that such costs would otherwise constitute shall be  
21 vacated.

22 (3) The court shall not order a defendant to pay costs unless the  
23 defendant is or will be able to pay them. In determining the amount  
24 and method of payment of costs, the court shall take account of the  
25 financial resources of the defendant and the nature of the burden that  
26 payment of costs will impose.

27 (4) A defendant who has been ordered to pay costs and who is not in  
28 contumacious default in the payment thereof may at any time petition  
29 the sentencing court for remission of the payment of costs or of any  
30 unpaid portion thereof. If it appears to the satisfaction of the court  
31 that payment of the amount due will impose manifest hardship on the  
32 defendant or the defendant's immediate family, the court may remit all  
33 or part of the amount due in costs, or modify the method of payment  
34 under RCW 10.01.170.

35 (5) Except for direct costs relating to evaluating and reporting to  
36 the court, prosecutor, or defense counsel regarding a defendant's  
37 competency to stand trial as provided in RCW 10.77.060, this section  
38 shall not apply to costs related to medical or mental health treatment

1 or services a defendant receives while in custody of the secretary of  
2 the department of social and health services or other governmental  
3 units. This section shall not prevent the secretary of the department  
4 of social and health services or other governmental units from imposing  
5 liability and seeking reimbursement from a defendant committed to an  
6 appropriate facility as provided in RCW 10.77.084 while criminal  
7 proceedings are stayed. This section shall also not prevent  
8 governmental units from imposing liability on defendants for costs  
9 related to providing medical or mental health treatment while the  
10 defendant is in the governmental unit's custody. Medical or mental  
11 health treatment and services a defendant receives at a state hospital  
12 or other facility are not a cost of prosecution and shall be  
13 recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B RCW, and  
14 any other applicable statute.

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