

# SENATE BILL REPORT

## SB 5533

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As of June 25, 2012

**Title:** An act relating to court-ordered legal financial obligations collected by the county clerks.

**Brief Description:** Addressing court-ordered legal financial obligations collected by the county clerks.

**Sponsors:** Senators Hargrove, Fraser and Carrell.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/04/11.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Shani Bauer (786-7468)

**Background:** 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 restitutions, crime victims' compensation fees, court costs, court-appointed attorneys' fees and costs of defense, fines, and other costs associated with the offense or sentence.

While an offender is incarcerated or authorized to supervise the offender in the community, the Department of Corrections (DOC) is responsible for collecting or arranging for the collection of legal financial obligations. When the offender completes his or her term of supervision, or if the offender is not subject to supervision, DOC will notify the Administrative Office of the Courts (AOC) of the termination of the offender's supervision and provide information to enable the county clerk to collect the remaining legal financial obligations. AOC provides billing services and maintains a statewide database of offender payments.

Monies collected from legal financial obligations are distributed between several sources. In 2010, an estimated \$12.8 million was distributed to restitution, \$1.9 million to the Crime Victims Fund, \$3.6 million to state revenue, and \$11.8 million to county recoupment.

Current law requires AOC to mail individualized monthly billings to offenders with the balance owed. When the Legislature transferred collection responsibility to the county clerks, it appropriated funding to the county clerks in order to conduct these monthly billings.

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*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.*

The 2003 appropriation required AOC to distribute the funds to the county clerks without deducting any portion for administrative costs.

In 2003 the Best Practices Committee with the Board of Judicial Administration conducted a review of collection practices used by courts of limited jurisdiction to collect court fines and fees. The report found that while there appeared to be some effectiveness (52 percent vs. 49.8 percent) to the use of monthly billing statements, the positive influence of this tool was limited and may not be cost effective.

A judgment for legal financial obligations entered as the result of a crime committed after July 1, 2000, does not expire until the judgment is satisfied. When a judgment is entered, including judgments for the payment of legal financial obligations, the judgment acts as a lien against any real property held by the judgment debtor. A judgment lien expires ten years from the date on which the judgment was entered, unless the judgment creditor applies for a ten-year extension within the 90 days before the judgment expires.

In collecting legal financial obligations, DOC is authorized to issue an order to withhold and deliver property of any kind when the obligation is past due.

**Summary of Bill:** Monies appropriated to AOC and distributed to county clerks to conduct billing of legal financial obligations are not subject to AOC administrative budget reductions. The funds may not be reduced unless specifically identified by the Legislature.

A judgment lien on real property resulting from a criminal sentence does not expire and remains in effect until the judgment is fully satisfied. The county clerk has the same authority as DOC to issue an order to withhold and deliver property for the collection of legal financial obligations.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: County clerks were given the responsibility for collection of legal financial obligations in 2003. The legislature allotted a certain amount of money for that function to be distributed through AOC. Administratively, AOC has cut approximately \$700,000 from the county collection budget. In significant part, they reduced the number of billing statements sent from once per month to once every other month. This impacts the county clerks' ability to collect the judgments. We are therefore asking the Legislature to specifically allot collection funds so that they will not be subject to AOC reductions.

CON: We have concerns regarding this bill. With the budget cuts, AOC had to make a decision where to cut money and decided to cut equitably across all programs. AOC asked the county clerks how they would like to receive cuts for this program and received no

response. Because AOC has responsibility for contracting for billing services for legal financial obligations, it was determined that the cuts could be made to the billing statements without impacting the funds that went directly to the county clerks for collection efforts. Historically, AOC has sent out approximately 125,000 statements per month. Billings now are sent every other month with a statement that includes two tabs for individuals to use in returning their payments for the following months. If AOC is not able to make cuts across the board, it would push inequitable cuts to other programs.

**Persons Testifying:** PRO: Kevin Stock, Joe McAllister, WA Association of County Clerks.

CON: Ramsey Radalin, Administrative Office of the Courts.