

HOUSE BILL REPORT

HB 2231

As Passed House:
February 17, 2014

Title: An act relating to legal financial obligations.

Brief Description: Clarifying legal financial obligation provisions.

Sponsors: Representatives Appleton, Roberts and Santos.

Brief History:

Committee Activity:

Public Safety: 1/31/14, 2/5/14 [DP].

Floor Activity:

Passed House: 2/17/14, 63-34.

Brief Summary of Bill

- Prevents failure to pay a monthly sum towards a legal financial obligation from being considered "willful noncompliance" if the offender is homeless or mentally ill, and, accordingly, prohibits penalties for noncompliance in that circumstance.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Roberts, Vice Chair; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Minority Report: Do not pass. Signed by 1 member: Representative Klippert, Ranking Minority Member.

Staff: Sarah Koster (786-7303).

Background:

When a person is convicted in superior court, the court may order the payment of legal financial obligations (LFOs) as part of the sentence. The court must designate the total amount of LFOs and identify the apportionment among restitution, costs, fines, and other

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assessments. The offender is required to pay, on a monthly basis, a set amount towards satisfying the LFOs. The amount is set by the court, the Department of Corrections (Department), or the county clerk, if the person is not under the supervision of the Department.

Legal financial obligations can include: restitution to the victim, statutorily imposed crime victims compensation fees, court costs, attorney fees, fines, costs of incarceration, or repayment of the expense of emergency response to the incident leading to conviction.

Methods of Collection.

Parties owed LFOs can seek enforcement the same as a judgment in a civil action. Alternately, a mandatory wage assignment may be obtained against the offender.

Penalties for Noncompliance.

The requirement that an offender pay LFOs is a condition or requirement of a sentence. If a court finds that nonpayment is willful, nonpayment subjects an offender to various types of penalties, including confinement, conversion of partial confinement to total confinement, or nonconfinement sanctions. If the noncompliance was not willful, the court may modify a previous order regarding payment of LFOs, including converting monetary obligations to community restitution at the rate of the state minimum wage.

Offenders with Mental Health Conditions.

Before imposing any LFOs, other than victim restitution, on a defendant who suffers from a mental health condition, the court must determine that the defendant has the means to pay. For the purposes of this restriction, a person suffers from a mental health condition when he or she has been diagnosed with a mental disorder that prevents the defendant from participating in gainful employment, as evidenced by a record of involuntary hospitalization, competent expert evaluation, or enrollment in a public assistance program based on mental disability.

A person is homeless if he or she lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

1. a supervised, publicly or privately operated shelter designed to provide temporary living conditions;
2. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or
3. a private residence where the individual stays as a transient invitee.

Summary of Bill:

If the court determines that the offender is homeless or mentally ill, failure to pay is not willful noncompliance and may not subject the offender to penalties.

A person is mentally ill if he or she meets one of the following four conditions, as defined in the Community Mental Health Services Act, chapter 71.24 RCW:

1. acutely mentally ill;
2. chronically mentally ill;
3. seriously disturbed; or

4. severely emotionally disturbed (for a child).

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Homeless people who do not have an address should not be punished for not paying LFOs on time. One of the most harmful things you can do to a person with mental illness is put them in jail without treatment. It is particularly cruel when it is because that person can't pay a financial obligation, usually as a result of mental illness. Legal financial obligations are a major barrier to reentry and reintegration into society and it is an even higher hurdle for people struggling with homelessness or mental illness. This is a very good bill which addresses a serious problem in the law. The federal definition of homelessness should be in the bill. Putting mentally ill people in jail has a high cost for the individual and the public. Mental illness will be exacerbated by incarceration. The definition of mental illness in the bill analysis establishes that the person cannot pay.

Washingtonians living with a criminal record face a daunting array of roadblocks as they work towards regaining their lives, rejoining their families, and contributing to their communities. From housing, to finding a living wage job, to meeting basic needs, people with records face hurdles in almost every level of their lives. On top of those, the state's harmful system of LFOs adds another roadblock. Eighty to 90 percent of people who enter the criminal justice system are considered indigent and are appointed a criminal defense attorney. So, almost everyone who enters the criminal justice system is already struggling with poverty. People with criminal records can't meet their basic needs, given the prejudice they face and saddled with LFOs.

(Opposed) None.

Persons Testifying: Representative Appleton, prime sponsor; David Lord, Disability Rights of Washington; Bob Cooper, Post Prison Education Project, Washington Defender Association, and Washington Association of Criminal Defense Lawyers; Steven Aldrich, Friends Committee on Washington Public Policy; and Marcy Bowers, Statewide Poverty Action Network.

Persons Signed In To Testify But Not Testifying: None.