

SENATE BILL REPORT

HB 2231

As of February 27, 2014

Title: An act relating to legal financial obligations.

Brief Description: Clarifying legal financial obligation provisions.

Sponsors: Representatives Appleton, Roberts and Santos.

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

Committee Activity: Human Services & Corrections: 2/25/14.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Shani Bauer (786-7468)

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

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.

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 non-confinement 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.

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 that person has been diagnosed with a mental disorder that prevents the defendant from participating in gainful employment, as evidenced by a record of involuntary hospitalization,

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competent expert evaluation, or enrollment in a public assistance program based on mental disability.

As defined in the Sentencing Reform Act, a person is homeless if that person lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

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

Summary of Bill: If the court determines an offender is homeless or mentally ill, failure to pay the offender's legal financial obligation is not willful noncompliance and may not subject the offender to penalties.

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

- acutely mentally ill;
- chronically mentally ill;
- seriously disturbed; or
- for a child, severely emotionally disturbed.

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: This bill is a long time in coming. LFOs are sometimes unfair, particularly in these circumstances where an offender is homeless or mentally ill. The LFO will simply continue to grow while the person is in jail and they may not even know that they need to pay. This is an issue of our values as to whether we are going to punish someone for being homeless or mentally ill. People living with extreme poverty or mental illness already face barriers in living a productive life. This is a critical first step in reducing barriers to reentry. LFOs create obstacles for reentry and reintegration although they serve an important function in reimbursing victims for their loss or injury. Jail simply exacerbates the problem. It is estimated that Spokane County spent \$3 million last year to incarcerate offenders for the nonpayment of LFOs.

Persons Testifying: PRO: Alex Hur, Statewide Poverty Action Network; Liz Mills, YWCA Seattle-King-Snohomish; Steven Aldrich, Friends Committee on WA Public Policy; E.B. Vodde, Associated Students of Eastern WA University; Cassandra Ando, National Assn. for Mental Illness WA.