
Judiciary Committee

HB 1390

Title: An act relating to legal financial obligations.

Brief Description: Concerning legal financial obligations.

Sponsors: Representatives Goodman, Holy, Jinkins, Kagi, Moscoso, Ormsby and Pollet.

Brief Summary of Bill

- Eliminates interest accrual on the non-restitution portions of legal financial obligations (LFOs) imposed in a criminal judgment and modifies standards for a court to reduce or waive interest that has accrued on LFOs.
- Provides that a court may not impose costs on a defendant who is indigent at the time of sentencing.
- Establishes provisions governing payment plans and priority of payment of LFOs.
- Addresses actions a court may take in sanction proceedings for failure to pay LFOs where the offender's failure to pay is not willful.
- Provides that the DNA Database fee is not mandatory if the state has already collected the offender's DNA as a result of a prior conviction.

Hearing Date: 1/21/15

Staff: Edie Adams (786-7180).

Background:

Legal Financial Obligations.

When a defendant is convicted of a crime, the court may impose legal financial obligations (LFOs) as part of the judgment and sentence. LFOs include: victim restitution; crime victims' compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments.

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.

Interest on Legal Financial Obligations.

Interest Rate: LFO judgments bear interest from the date of judgment at the same rate that applies to civil judgments. The rate of interest generally applicable to civil judgments is the greater of 12 percent or four points above the 26-week treasury bill rate. As a result of low treasury bill rates, 12 percent has been the applicable interest rate on LFOs for over two decades. For cases in courts of limited jurisdiction, interest accrues on non-restitution financial obligations at the rate of 12 percent upon assignment to a collection agency.

Interest that accrues on the restitution portion of the LFO is paid to the victim of the offense. All other accrued interest is split between the state and the county as follows: 25 percent to the state General Fund; 25 percent to the state Judicial Information System Account; and 50 percent to the county, 25 percent of which must be used to fund local courts.

Reduction or Waiver of Interest: An offender may petition a court to reduce or waive the interest on LFOs as an incentive for the offender to pay the principal. The court must waive interest on the portion of LFOs that accrued during the term of total confinement for the conviction giving rise to the LFOs if it creates a hardship for the offender or his or her family. The court may otherwise reduce interest on non-restitution LFOs if the offender has made a good faith effort to pay. Interest on restitution may not be waived, but may be reduced if the offender has paid the restitution principal in full.

Imposition and Collection of LFOs.

Costs: Costs that may be imposed on a defendant include public defense costs, jury fee, criminal filing fee, bench warrant fee, deferred prosecution fee, pre-trial supervision fee, witness costs, incarceration costs, and other costs as ordered by the court.

A court may not order a defendant to pay costs unless the court finds that the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court must take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose. A defendant not in default in the payment of costs may petition for remission of all or part of the costs owed if payment of the amount due will result in manifest hardship to the defendant or his or her family.

Priority of Payment: An offender's payments towards a legal financial obligation are applied first to restitution, and then proportionally to other monetary obligations after restitution has been satisfied. Costs of incarceration, if ordered, are paid last.

Failure to Pay Legal Financial Obligations.

The requirement that an offender pay a monthly sum towards a legal financial obligation is a condition of the sentence and an offender is subject to penalties for noncompliance. Under the Sentencing Reform Act, sanctions for a willful failure to pay can include incarceration or other penalties such as work crew or community restitution. If the failure to pay is not willful, the court may modify the offender's LFOs.

Civil contempt sanctions may also apply to an offender who fails to pay financial obligations. If the court finds that the failure to pay was willful, the court may impose contempt sanctions including incarceration. If the court determines the failure to pay was not willful, the court may modify the terms of payment, or reduce or revoke the amount of the financial obligation.

DNA Database Fee.

A biological sample must be collected for purposes of DNA identification analysis from every person convicted of a felony or certain other offenses, and the court must impose a \$100 fee as part of the sentence for the offense. Eighty percent of the fee is deposited into the DNA Database Account and 20 percent of the fee is transmitted to the local agency that collected the biological sample.

Summary of Bill:

LFO Interest.

Interest Rate: Interest accrual on the non-restitution portion of an offender's LFOs imposed in superior court or courts of limited jurisdiction is eliminated as of the effective date of the act.

Reduction or Waiver of Interest: Standards for the reduction or waiver of interest on LFOs are revised. Upon motion of the offender, the court must waive interest on the non-restitution portion of the LFOs that accrued prior to the effective date of the act. In addition, the court must waive interest that accrued on restitution while the offender was in total confinement for the conviction that gave rise to the LFO.

Imposition and collection of LFOs.

Costs: A court may not impose costs on an offender if the court finds the offender is at the time of sentencing indigent as defined in laws governing the provision of indigent defense services. A person is "indigent" under these standards if the person is receiving certain types of public assistance, involuntarily committed to a public mental health facility, or receiving an annual income after taxes of 125 percent of the federal poverty levels.

An offender who is not in default in the payment of costs may request the court to convert unpaid costs to community restitution hours at the rate of the minimum wage if payment of the amount due will result in manifest hardship to the defendant.

Priority of Payment: An offender's LFO payment must be applied to the principal on restitution obligations in all cases within a jurisdiction prior to payment of any other monetary obligations. The priority of payment applies to cases in courts of limited jurisdiction as well as superior court.

Payment plans: If the court finds that the defendant is indigent, the court must grant permission for payment of legal financial obligations to be made within a specified period of time or in specified installments.

Enforcement of LFOs.

When a court is considering sanctions for failure to pay LFOs, if court finds that failure to pay is not willful the court may, and if the defendant is indigent the court must, either: (1) modify the terms of payment; (2) reduce or waive non-restitution amounts; or (3) with the offender's consent allow conversion of non-restitution obligations to be converted to community restitution hours at the rate of no less than the state minimum wage for each hour of community restitution. The crime victim penalty assessment may not be reduced, waived, or converted to community restitution hours.

If the court determines that the offender is homeless or is a person who is mentally ill, failure to pay LFOs is not willful noncompliance with the conditions of the sentence and does not subject the offender to penalties.

DNA Database Fee.

The court is not required to impose the DNA database fee if the state has previously collected the offender's DNA as a result of a prior conviction.

Appropriation: None.

Fiscal Note: Requested on January 19, 2015.

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