

HOUSE BILL REPORT

HB 1058

As Amended by the Senate

Title: An act relating to court-ordered restitution.

Brief Description: Changing provisions relating to court-ordered restitution in certain criminal cases.

Sponsors: Representative MacEwen.

Brief History:

Committee Activity:

Public Safety: 1/19/17, 1/26/17 [DP].

Floor Activity:

Passed House: 3/8/17, 97-0.

Senate Amended.

Passed Senate: 4/12/17, 48-1.

Brief Summary of Bill

- Prohibits the court from postponing an offender's restitution payments until after the offender is released from total confinement.
- Provides that an offender's inability to make restitution payments while in total confinement cannot be a violation of the offender's sentence unless the inability to pay resulted from a refusal to accept, or termination from, Class I or Class II Correctional Industries employment.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 10 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Staff: Omeara Harrington (786-7136).

Background:

Restitution.

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.

When a defendant is convicted of a crime, the court may impose various legal financial obligations as part of the judgment and sentence. Restitution is a sum ordered by the sentencing court to be paid by the offender over a specified period of time as payment of a victim's damages. A restitution order must be based on easily ascertainable damages for injury to property, expenses incurred for treatment of personal injuries, lost wages, and counseling that is reasonably related to the offense. 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.

A sentencing court must order the payment of restitution whenever a victim of the crime is entitled to crime victims compensation benefits. In addition, a court must order restitution when the offender is convicted of an offense which results in personal injury or property damage, unless extraordinary circumstances exist that make restitution inappropriate. In ordering restitution, the court is instructed to consider the total amount of restitution owed, the offender's present, past, and future ability to pay, and any assets the offender may have. The court may modify the terms of the restitution order, but cannot reduce the total amount of restitution ordered.

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. Sanctions for a willful failure to pay can include incarceration or other penalties such as work crew or community restitution.

Correctional Industries.

The Department of Corrections (DOC) provides inmate work programs through its Correctional Industries Division. There are five classes of correctional industry work programs. All inmates working in Class I–IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is performed for the benefit of the community without financial compensation.

Class I ("free venture") industries allow private sector companies to operate within state correctional facilities to produce goods or services for sale to the public or private sector. Class II ("tax reduction") industries are state-owned and operated industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations.

The DOC deducts taxes and legal financial obligations from the wages inmates earn while working in Correctional Industries employment.

Summary of Bill:

When a court has ordered an offender to pay restitution as part of the judgment and sentence, the court may not postpone the commencement of restitution payments until after the offender is released from total confinement.

An offender's inability to make restitution payments while in total confinement may not be considered a violation of the sentence unless the offender's inability to make payments results from a refusal to accept Correctional Industries Class I or Class II employment, or from termination for cause from such employment.

EFFECT OF SENATE AMENDMENT(S):

All underlying provisions of the bill are removed. The removed provisions are replaced with provisions that: (1) add an intent section; and (2) establish a priority for payment of an offender's legal financial obligations (LFOs). An offender's monthly LFO payments must be applied in the following order of priority:

- first, proportionally to restitution to victims that have not been fully compensated from other resources;
- second, proportionally to restitution to insurance or other sources with respect to a loss that has provided compensation to victims;
- third, proportionally to crime victims' assessment; and
- fourth, proportionally to costs, fines, and other assessments.

The priority of payment applies to cases in courts of limited jurisdiction as well as superior court.

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) This measure is to ensure that the financial burden already incurred by victims does not have to be adjudicated again. Restitution should be prioritized, and not secondary to other obligations. Some victims suffer catastrophic financial losses. Victims need hope that they will have money coming in so that they can provide for basic necessities like food and rent. This is essential for domestic violence victims.

(Opposed) None.

Persons Testifying: Representative MacEwen, prime sponsor; and Debbie Teel.

Persons Signed In To Testify But Not Testifying: None.