

HOUSE BILL REPORT

HB 1093

As Reported by House Committee On:
Judiciary

Title: An act relating to legal financial obligations.

Brief Description: Clarifying legal financial obligation provisions.

Sponsors: Representatives Appleton, Ormsby, Jinkins, Stanford, Dolan, Santos, Pollet and Peterson.

Brief History:

Committee Activity:

Judiciary: 1/17/17, 1/26/17 [DP].

Brief Summary of Bill

- Provides that if a court determines an offender is homeless or is a person who is mentally ill, the offender's failure to pay legal financial obligations is not willful noncompliance with the conditions of his or her sentence and does not subject the offender to penalties.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Muri, Assistant Ranking Minority Member; Frame, Goodman, Graves, Hansen, Kirby and Orwall.

Minority Report: Without recommendation. Signed by 3 members: Representatives Rodne, Ranking Minority Member; Haler and Klippert.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Staff: Edie Adams (786-7180).

Background:

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 legal financial obligations as part of the judgment and sentence. Legal financial obligations that may be imposed include: victim restitution; crime victims' compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments.

An offender's compliance with legal financial obligations is supervised by the Department of Corrections (DOC) during any period the offender is incarcerated or under supervision after release, and then by the county clerk for the remaining period the offender is under the jurisdiction of the court. An offender is required to pay on a monthly basis a set amount toward satisfying legal financial obligations. The amount is set by the court, the DOC while under supervision, or the county clerk if the person is not under the supervision of the DOC. An offender's payments towards legal financial obligations 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.

Under the Sentencing Reform Act (SRA), 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 legal financial obligations 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 legal financial obligations.

When a defendant suffers from a mental disorder that prevents the defendant from participating in gainful employment, the court may not impose legal financial obligations, other than restitution and the victim penalty assessment, unless the court determines that the defendant has the means to pay. A finding that a defendant suffers from a mental disorder preventing gainful employment may be based on enrollment in a public assistance program on the basis of mental disability, a record of involuntary hospitalization, or competent expert evaluation.

For purposes of the SRA, a person is homeless if that person lacks a fixed, regular, and adequate nighttime residence and has a primary nighttime residence that is: a publicly or privately operated shelter designed to provide temporary living conditions; a place not designed for, or ordinarily used as, a regular sleeping accommodation for humans; or a private residence where the person stays as a transient invitee.

Summary of Bill:

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

An offender is mentally ill if the offender 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: Not requested.

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) The language in this bill is an important part of legal financial obligation (LFO) reform. It is part of a larger LFO reform bill that is similar to the one passed unanimously in previous sessions. There is significant concern around the number of times people are subject to warrants and are arrested because they do not have the ability to pay LFOs due to their mental illness or homelessness. The court might consider mental health issues or homelessness when imposing LFOs, but circumstances can change between time of sentencing and when obligations are being paid. This bill will make the process uniform across the state.

(Opposed) None.

(Other) Reform of the LFO system is a priority. The courts should not be funded through revenue obtained from the poor, but this is what is happening because the majority of defendants are indigent. The bill is not broad enough to address all areas that need reform. It does not prohibit the imposition of LFOs in the first case if a defendant is homeless or mentally ill. There is discrepancy across the state as to whether ability to pay is being considered. The issue of homelessness or mental illness should be considered at the time of sentencing in determining whether the defendant has the ability to pay.

Persons Testifying: (In support) Representative Goodman; David Lord, Disability Rights Washington; and Seth Dawson, National Alliance on Mental Illness Washington.

(Other) Elisabeth Smith, American Civil Liberties Union of Washington.

Persons Signed In To Testify But Not Testifying: None.