

SENATE BILL REPORT

HB 1058

As Reported by Senate Committee On:
Law & Justice, March 29, 2017

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: Passed House: 3/08/17, 97-0.

Committee Activity: Law & Justice: 3/15/17, 3/29/17 [DPA, w/oRec].

Brief Summary of Amended Bill

- Requires restitution for all restitution orders owed by an offender to be paid before any other legal financial obligation.
- Prioritizes the order in which an offender's payment toward legal financial obligations must be paid and requires a higher priority level for all orders owed to be satisfied before proceeding to the next level of priority.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Frockt and Wilson.

Minority Report: That it be referred without recommendation.

Signed by Senator Darneille.

Staff: Shani Bauer (786-7468)

Background: Restitution. When a defendant is convicted of a crime, the court may impose legal financial obligations as part of the judgment and sentence, including victim restitution. Restitution must be based on easily ascertainable damages for injury or loss of property, actual expenses incurred for medical treatment, and lost wages. At the time of the restitution order, the court must set a minimum monthly payment the offender is required to make

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.

towards the restitution that is ordered, taking into consideration the total amount owed, the offender's ability to pay, and any assets the offender might have.

Judgments for financial obligations in criminal proceedings bear interest from the date of judgment at the same rate that is applicable 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 criminal financial obligation judgments for almost two decades. Interest that accrues on the restitution portion of the financial obligation is paid to the victim of the offense.

If an offender willfully fails to make payment towards the offender's legal financial obligations as ordered, the court may impose various types of penalties, including confinement, conversion of partial confinement to total confinement, or non-confinement sanctions.

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.

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

Summary of Amended Bill: An offender's payment for legal financial obligations must be applied in the following order of priority:

1. proportionally to any restitution order owed to victims that have not been fully compensated from other sources until satisfied;
2. proportionally to restitution owed to insurance or other sources with respect to a loss that has provided compensation to victims until satisfied;
3. proportionally to crime victims' assessments until satisfied; and
4. proportionally to costs, fines, and other assessments required by law.

EFFECT OF LAW & JUSTICE COMMITTEE AMENDMENT(S):

- Adds an intent section.
- Removes provisions prohibiting a court from postponing restitution payments while an offender is incarcerated as DOC deducts funds from an offender's account for the payment of restitution regardless of the payment amount set by the court.
- Requires restitution for all restitution orders owed by an offender to be paid before any other legal financial obligation.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: A crime of assault resulting in substantial injury is financially devastating to the victim and the victim's family. We incurred medical bills far beyond our ability to pay and my husband was unable to work during that time. We lost everything, including our home. This leaves a victim responsible for a financial burden that they had no part in creating. Anything that can be done to ensure that restitution is paid to the victim should be done.

CON: This bill does not change the mechanics of how restitution is collected and paid. DOC collects restitution regardless of the payment amount in the court order.

Persons Testifying: PRO: Debbie Teel, citizen; North Teel, citizen.

CON: Bob Cooper, WA Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.