

---

**SENATE BILL 6220**

---

**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Dhingra, Das, Darneille, Hasegawa, and Kuderer

Prefiled 01/10/20. Read first time 01/13/20. Referred to Committee on Law & Justice.

1 AN ACT Relating to restitution; amending RCW 9.94A.750; and  
2 creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.94A.750 and 2018 c 123 s 1 are each amended to  
5 read as follows:

6 This section applies to offenses committed on or before July 1,  
7 1985.

8 (1) If restitution is ordered, the court shall determine the  
9 amount of restitution due at the sentencing hearing or within one  
10 hundred eighty days. The court may continue the hearing beyond the  
11 one hundred eighty days for good cause. The court shall then set a  
12 minimum monthly payment that the offender is required to make towards  
13 the restitution that is ordered. The court shall not issue any order  
14 that postpones the commencement of restitution payments until after  
15 the offender is released from total confinement. The court should  
16 take into consideration the total amount of the restitution owed, the  
17 offender's present, past, and future ability to pay, as well as any  
18 assets that the offender may have. An offender's inability to make  
19 restitution payments while in total confinement may not be the basis  
20 for a violation of his or her sentence unless his or her inability to  
21 make payments resulted from a refusal to accept an employment offer

1 to a class I or class II job or a termination for cause from such a  
2 job.

3 (2) During the period of supervision, the community corrections  
4 officer may examine the offender to determine if there has been a  
5 change in circumstances that warrants an amendment of the monthly  
6 payment schedule. The community corrections officer may recommend a  
7 change to the schedule of payment and shall inform the court of the  
8 recommended change and the reasons for the change. The sentencing  
9 court may then reset the monthly minimum payments based on the report  
10 from the community corrections officer of the change in  
11 circumstances.

12 (3) Except as provided in subsection (6) of this section,  
13 restitution ordered by a court pursuant to a criminal conviction  
14 shall be based on easily ascertainable damages for injury to or loss  
15 of property, actual expenses incurred for treatment for injury to  
16 persons, and lost wages resulting from injury. Restitution shall not  
17 include reimbursement for damages for mental anguish, pain and  
18 suffering, or other intangible losses, but may include the costs of  
19 counseling reasonably related to the offense. The amount of  
20 restitution shall not exceed double the amount of the offender's gain  
21 or the victim's loss from the commission of the offense.

22 (4) For the purposes of this section, the offender shall remain  
23 under the court's jurisdiction for a term of ten years following the  
24 offender's release from total confinement or ten years subsequent to  
25 the entry of the judgment and sentence, whichever period is longer.  
26 Prior to the expiration of the initial ten-year period, the superior  
27 court may extend jurisdiction under the criminal judgment an  
28 additional ten years for payment of restitution. The portion of the  
29 sentence concerning restitution may be modified as to amount, terms  
30 and conditions during either the initial ten-year period or  
31 subsequent ten-year period if the criminal judgment is extended,  
32 regardless of the expiration of the offender's term of community  
33 supervision and regardless of the statutory maximum sentence for the  
34 crime. The court may not reduce the total amount of restitution  
35 ordered because the offender may lack the ability to pay the total  
36 amount. The offender's compliance with the restitution shall be  
37 supervised by the department only during any period which the  
38 department is authorized to supervise the offender in the community  
39 under RCW 9.94A.728, 9.94A.501, or in which the offender is in  
40 confinement in a state correctional institution or a correctional

1 facility pursuant to a transfer agreement with the department, and  
2 the department shall supervise the offender's compliance during any  
3 such period. The department is responsible for supervision of the  
4 offender only during confinement and authorized supervision and not  
5 during any subsequent period in which the offender remains under the  
6 court's jurisdiction. The county clerk is authorized to collect  
7 unpaid restitution at any time the offender remains under the  
8 jurisdiction of the court for purposes of his or her legal financial  
9 obligations.

10 (5) Restitution may be ordered whenever the offender is convicted  
11 of an offense which results in injury to any person or damage to or  
12 loss of property or as provided in subsection (6) of this section. In  
13 addition, restitution may be ordered to pay for an injury, loss, or  
14 damage if the offender pleads guilty to a lesser offense or fewer  
15 offenses and agrees with the prosecutor's recommendation that the  
16 offender be required to pay restitution to a victim of an offense or  
17 offenses which are not prosecuted pursuant to a plea agreement.

18 (6) Restitution for the crime of rape of a child in the first,  
19 second, or third degree, in which the victim becomes pregnant, shall  
20 include: (a) All of the victim's medical expenses that are associated  
21 with the rape and resulting pregnancy; and (b) child support for any  
22 child born as a result of the rape if child support is ordered  
23 pursuant to a proceeding in superior court or administrative order  
24 for support for that child. The clerk must forward any restitution  
25 payments made on behalf of the victim's child to the Washington state  
26 child support registry under chapter 26.23 RCW. Identifying  
27 information about the victim and child shall not be included in the  
28 order. The offender shall receive a credit against any obligation  
29 owing under the administrative or superior court order for support of  
30 the victim's child. For the purposes of this subsection, the offender  
31 shall remain under the court's jurisdiction until the offender has  
32 satisfied support obligations under the superior court or  
33 administrative order but not longer than a maximum term of twenty-  
34 five years following the offender's release from total confinement or  
35 twenty-five years subsequent to the entry of the judgment and  
36 sentence, whichever period is longer. The court may not reduce the  
37 total amount of restitution ordered because the offender may lack the  
38 ability to pay the total amount. The department shall supervise the  
39 offender's compliance with the restitution ordered under this  
40 subsection.

1 (7) In addition to any sentence that may be imposed, an offender  
2 who has been found guilty of an offense involving fraud or other  
3 deceptive practice or an organization which has been found guilty of  
4 any such offense may be ordered by the sentencing court to give  
5 notice of the conviction to the class of persons or to the sector of  
6 the public affected by the conviction or financially interested in  
7 the subject matter of the offense by mail, by advertising in  
8 designated areas or through designated media, or by other appropriate  
9 means.

10 (8) This section does not limit civil remedies or defenses  
11 available to the victim or offender including support enforcement  
12 remedies for support ordered under subsection (6) of this section for  
13 a child born as a result of a rape of a child victim. The court shall  
14 identify in the judgment and sentence the victim or victims entitled  
15 to restitution and what amount is due each victim. The state or  
16 victim may enforce the court-ordered restitution in the same manner  
17 as a judgment in a civil action. Restitution collected through civil  
18 enforcement must be paid through the registry of the court and must  
19 be distributed proportionately according to each victim's loss when  
20 there is more than one victim.

21 (9) At any time, the court may determine that the respondent is  
22 not required to pay, or may relieve the respondent of the requirement  
23 to pay, full or partial restitution to any insurance provider  
24 authorized under Title 48 RCW if the respondent reasonably satisfies  
25 the court that he or she does not have the means to make full or  
26 partial restitution to the insurance provider.

27 NEW SECTION. Sec. 2. This act applies retroactively to all  
28 causes of action commenced either prior to or after the effective  
29 date of this section, regardless of when the cause of action arose.

--- END ---