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**SENATE BILL 5592**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators C. Wilson, Dhingra, and Hasegawa; by request of Office of Financial Management

Prefiled 12/23/21. Read first time 01/10/22. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to eliminating the cost of supervision  
2 assessments charged to offenders; amending RCW 9.94A.74504,  
3 9.94A.760, and 9.95.214; creating a new section; repealing RCW  
4 9.94A.780, 72.04A.120, and 72.11.040; and providing an effective  
5 date.

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

7 **Sec. 1.** RCW 9.94A.74504 and 2011 1st sp.s. c 40 s 14 are each  
8 amended to read as follows:

9 (1) The department may supervise nonfelony offenders transferred  
10 to Washington pursuant to RCW 9.94A.745, the interstate compact for  
11 adult offender supervision, and shall supervise these offenders  
12 according to the provisions of this chapter.

13 (2) The department shall process applications for interstate  
14 transfer of felony and nonfelony offenders requesting transfer of  
15 supervision out-of-state pursuant to RCW 9.94A.745, the interstate  
16 compact for adult offender supervision (~~(, and may charge offenders a~~  
17 ~~reasonable fee for processing the application.~~

18 ~~(3) The department shall adopt a rule prescribing the amount of~~  
19 ~~the interstate transfer application fee).~~

1       **Sec. 2.** RCW 9.94A.760 and 2018 c 269 s 14 are each amended to  
2 read as follows:

3       (1) Whenever a person is convicted in superior court, the court  
4 may order the payment of a legal financial obligation as part of the  
5 sentence. The court may not order an offender to pay costs as  
6 described in RCW 10.01.160 if the court finds that the offender at  
7 the time of sentencing is indigent as defined in RCW 10.101.010(3)  
8 (a) through (c). An offender being indigent as defined in RCW  
9 10.101.010(3) (a) through (c) is not grounds for failing to impose  
10 restitution or the crime victim penalty assessment under RCW  
11 7.68.035. The court must on either the judgment and sentence or on a  
12 subsequent order to pay, designate the total amount of a legal  
13 financial obligation and segregate this amount among the separate  
14 assessments made for restitution, costs, fines, and other assessments  
15 required by law. On the same order, the court is also to set a sum  
16 that the offender is required to pay on a monthly basis towards  
17 satisfying the legal financial obligation. If the court fails to set  
18 the offender monthly payment amount, the department shall set the  
19 amount if the department has active supervision of the offender,  
20 otherwise the county clerk shall set the amount.

21       (2) Upon receipt of each payment made by or on behalf of an  
22 offender, the county clerk shall distribute the payment in the  
23 following order of priority until satisfied:

24       (a) First, proportionally to restitution to victims that have not  
25 been fully compensated from other sources;

26       (b) Second, proportionally to restitution to insurance or other  
27 sources with respect to a loss that has provided compensation to  
28 victims;

29       (c) Third, proportionally to crime victims' assessments; and

30       (d) Fourth, proportionally to costs, fines, and other assessments  
31 required by law.

32       (3) If the court determines that the offender, at the time of  
33 sentencing, has the means to pay for the cost of incarceration, the  
34 court may require the offender to pay for the cost of incarceration.  
35 The court shall not order the offender to pay the cost of  
36 incarceration if the court finds that the offender at the time of  
37 sentencing is indigent as defined in RCW 10.101.010(3) (a) through  
38 (c). Costs of incarceration ordered by the court shall not exceed a  
39 rate of fifty dollars per day of incarceration, if incarcerated in a  
40 prison, or the actual cost of incarceration per day of incarceration,

1 if incarcerated in a county jail. In no case may the court require  
2 the offender to pay more than one hundred dollars per day for the  
3 cost of incarceration. All funds recovered from offenders for the  
4 cost of incarceration in the county jail shall be remitted to the  
5 county and the costs of incarceration in a prison shall be remitted  
6 to the department.

7 (4) The court may add to the judgment and sentence or subsequent  
8 order to pay a statement that a notice of payroll deduction is to be  
9 issued immediately. If the court chooses not to order the immediate  
10 issuance of a notice of payroll deduction at sentencing, the court  
11 shall add to the judgment and sentence or subsequent order to pay a  
12 statement that a notice of payroll deduction may be issued or other  
13 income-withholding action may be taken, without further notice to the  
14 offender if a monthly court-ordered legal financial obligation  
15 payment is not paid when due, and an amount equal to or greater than  
16 the amount payable for one month is owed.

17 If a judgment and sentence or subsequent order to pay does not  
18 include the statement that a notice of payroll deduction may be  
19 issued or other income-withholding action may be taken if a monthly  
20 legal financial obligation payment is past due, the department or the  
21 county clerk may serve a notice on the offender stating such  
22 requirements and authorizations. Service shall be by personal service  
23 or any form of mail requiring a return receipt.

24 (5) Independent of the department or the county clerk, the party  
25 or entity to whom the legal financial obligation is owed shall have  
26 the authority to use any other remedies available to the party or  
27 entity to collect the legal financial obligation. These remedies  
28 include enforcement in the same manner as a judgment in a civil  
29 action by the party or entity to whom the legal financial obligation  
30 is owed. Restitution collected through civil enforcement must be paid  
31 through the registry of the court and must be distributed  
32 proportionately according to each victim's loss when there is more  
33 than one victim. The judgment and sentence shall identify the party  
34 or entity to whom restitution is owed so that the state, party, or  
35 entity may enforce the judgment. If restitution is ordered pursuant  
36 to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or  
37 a victim's child born from the rape, the Washington state child  
38 support registry shall be identified as the party to whom payments  
39 must be made. Restitution obligations arising from the rape of a  
40 child in the first, second, or third degree that result in the

1 pregnancy of the victim may be enforced for the time periods provided  
2 under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial  
3 obligations for an offense committed prior to July 1, 2000, may be  
4 enforced at any time during the ten-year period following the  
5 offender's release from total confinement or within ten years of  
6 entry of the judgment and sentence, whichever period ends later.  
7 Prior to the expiration of the initial ten-year period, the superior  
8 court may extend the criminal judgment an additional ten years for  
9 payment of legal financial obligations including crime victims'  
10 assessments. All other legal financial obligations for an offense  
11 committed on or after July 1, 2000, may be enforced at any time the  
12 offender remains under the court's jurisdiction. For an offense  
13 committed on or after July 1, 2000, the court shall retain  
14 jurisdiction over the offender, for purposes of the offender's  
15 compliance with payment of the legal financial obligations, until the  
16 obligation is completely satisfied, regardless of the statutory  
17 maximum for the crime. The department may only supervise the  
18 offender's compliance with payment of the legal financial obligations  
19 during any period in which the department is authorized to supervise  
20 the offender in the community under RCW 9.94A.728, 9.94A.501, or in  
21 which the offender is confined in a state correctional institution or  
22 a correctional facility pursuant to a transfer agreement with the  
23 department, and the department shall supervise the offender's  
24 compliance during any such period. The department is not responsible  
25 for supervision of the offender during any subsequent period of time  
26 the offender remains under the court's jurisdiction. The county clerk  
27 is authorized to collect unpaid legal financial obligations at any  
28 time the offender remains under the jurisdiction of the court for  
29 purposes of his or her legal financial obligations.

30 (6) In order to assist the court in setting a monthly sum that  
31 the offender must pay during the period of supervision, the offender  
32 is required to report to the department for purposes of preparing a  
33 recommendation to the court. When reporting, the offender is  
34 required, under oath, to respond truthfully and honestly to all  
35 questions concerning present, past, and future earning capabilities  
36 and the location and nature of all property or financial assets. The  
37 offender is further required to bring all documents requested by the  
38 department.

39 (7) After completing the investigation, the department shall make  
40 a report to the court on the amount of the monthly payment that the

1 offender should be required to make towards a satisfied legal  
2 financial obligation.

3 (8) (a) During the period of supervision, the department may make  
4 a recommendation to the court that the offender's monthly payment  
5 schedule be modified so as to reflect a change in financial  
6 circumstances. If the department sets the monthly payment amount, the  
7 department may modify the monthly payment amount without the matter  
8 being returned to the court. During the period of supervision, the  
9 department may require the offender to report to the department for  
10 the purposes of reviewing the appropriateness of the collection  
11 schedule for the legal financial obligation. During this reporting,  
12 the offender is required under oath to respond truthfully and  
13 honestly to all questions concerning earning capabilities and the  
14 location and nature of all property or financial assets. The offender  
15 shall bring all documents requested by the department in order to  
16 prepare the collection schedule.

17 (b) Subsequent to any period of supervision, or if the department  
18 is not authorized to supervise the offender in the community, the  
19 county clerk may make a recommendation to the court that the  
20 offender's monthly payment schedule be modified so as to reflect a  
21 change in financial circumstances. If the county clerk sets the  
22 monthly payment amount, or if the department set the monthly payment  
23 amount and the department has subsequently turned the collection of  
24 the legal financial obligation over to the county clerk, the clerk  
25 may modify the monthly payment amount without the matter being  
26 returned to the court. During the period of repayment, the county  
27 clerk may require the offender to report to the clerk for the purpose  
28 of reviewing the appropriateness of the collection schedule for the  
29 legal financial obligation. During this reporting, the offender is  
30 required under oath to respond truthfully and honestly to all  
31 questions concerning earning capabilities and the location and nature  
32 of all property or financial assets. The offender shall bring all  
33 documents requested by the county clerk in order to prepare the  
34 collection schedule.

35 (9) After the judgment and sentence or payment order is entered,  
36 the department is authorized, for any period of supervision, to  
37 collect the legal financial obligation from the offender. Subsequent  
38 to any period of supervision or, if the department is not authorized  
39 to supervise the offender in the community, the county clerk is  
40 authorized to collect unpaid legal financial obligations from the

1 offender. Any amount collected by the department shall be remitted  
2 daily to the county clerk for the purpose of disbursements. The  
3 department and the county clerks are authorized, but not required, to  
4 accept credit cards as payment for a legal financial obligation, and  
5 any costs incurred related to accepting credit card payments shall be  
6 the responsibility of the offender.

7 (10) The department or any obligee of the legal financial  
8 obligation may seek a mandatory wage assignment for the purposes of  
9 obtaining satisfaction for the legal financial obligation pursuant to  
10 RCW 9.94A.7701. Any party obtaining a wage assignment shall notify  
11 the county clerk. The county clerks shall notify the department, or  
12 the administrative office of the courts, whichever is providing the  
13 monthly billing for the offender.

14 (11) The requirement that the offender pay a monthly sum towards  
15 a legal financial obligation constitutes a condition or requirement  
16 of a sentence and the offender is subject to the penalties for  
17 noncompliance as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740.  
18 If the court determines that the offender is homeless or a person who  
19 is mentally ill, as defined in RCW 71.24.025, failure to pay a legal  
20 financial obligation is not willful noncompliance and shall not  
21 subject the offender to penalties.

22 (12)(a) The administrative office of the courts shall mail  
23 individualized periodic billings to the address known by the office  
24 for each offender with an unsatisfied legal financial obligation.

25 (b) The billing shall direct payments(~~(, other than outstanding~~  
26 ~~cost of supervision assessments under RCW 9.94A.780, parole~~  
27 ~~assessments under RCW 72.04A.120, and cost of probation assessments~~  
28 ~~under RCW 9.95.214,)) to the county clerk(~~(, and cost of supervision,~~  
29 ~~parole, or probation assessments to the department))~~).~~

30 (c) The county clerk shall provide the administrative office of  
31 the courts with notice of payments by such offenders no less  
32 frequently than weekly.

33 (d) The county clerks, the administrative office of the courts,  
34 and the department shall maintain agreements to implement this  
35 subsection.

36 (13) The department shall arrange for the collection of unpaid  
37 legal financial obligations during any period of supervision in the  
38 community through the county clerk. The department shall either  
39 collect unpaid legal financial obligations or arrange for collections  
40 through another entity if the clerk does not assume responsibility or

1 is unable to continue to assume responsibility for collection  
2 pursuant to subsection (5) of this section. The costs for collection  
3 services shall be paid by the offender.

4 (14) The county clerk may access the records of the employment  
5 security department for the purposes of verifying employment or  
6 income, seeking any assignment of wages, or performing other duties  
7 necessary to the collection of an offender's legal financial  
8 obligations.

9 (15) Nothing in this chapter makes the department, the state, the  
10 counties, or any state or county employees, agents, or other persons  
11 acting on their behalf liable under any circumstances for the payment  
12 of these legal financial obligations or for the acts of any offender  
13 who is no longer, or was not, subject to supervision by the  
14 department for a term of community custody, and who remains under the  
15 jurisdiction of the court for payment of legal financial obligations.

16 **Sec. 3.** RCW 9.95.214 and 2011 1st sp.s. c 40 s 11 are each  
17 amended to read as follows:

18 Whenever a defendant convicted of a misdemeanor or gross  
19 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210,  
20 and the defendant is supervised by a county probation department, the  
21 county probation department may assess and collect from the defendant  
22 for the duration of the term of supervision a monthly assessment not  
23 to exceed one hundred dollars per month. (~~Whenever a defendant~~  
24 ~~convicted of a misdemeanor or gross misdemeanor is placed on~~  
25 ~~probation under RCW 9.92.060 or 9.95.210, and the defendant is~~  
26 ~~supervised by the department of corrections, the department may~~  
27 ~~collect supervision intake fees pursuant to RCW 9.94A.780.~~) This  
28 assessment shall be paid to the agency supervising the defendant and  
29 shall be applied, along with funds appropriated by the legislature,  
30 toward the payment or part payment of the cost of supervising the  
31 defendant. The county probation department shall suspend such  
32 assessment while the defendant is being supervised by another state  
33 pursuant to RCW 9.94A.745, the interstate compact for adult offender  
34 supervision.

35 NEW SECTION. **Sec. 4.** The following acts or parts of acts are  
36 each repealed:

1 (1) RCW 9.94A.780 (Offender supervision intake fees) and 2011 1st  
2 sp.s. c 40 s 10, 2008 c 231 s 37, 2003 c 379 s 18, 1991 c 104 s 1,  
3 1989 c 252 s 8, 1984 c 209 s 15, & 1982 c 207 s 2; and

4 (2) RCW 72.04A.120 (Parolee supervision intake fees) and 2012 c  
5 117 s 458, 2011 1st sp.s. c 40 s 12, 1991 c 104 s 2, 1989 c 252 s 20,  
6 & 1982 c 207 s 1.

7 NEW SECTION. **Sec. 5.** RCW 72.11.040 (Cost of supervision fund)  
8 and 2011 1st sp.s. c 40 s 13, 2005 c 518 s 943, 2003 1st sp.s. c 25 s  
9 936, 2001 2nd sp.s. c 7 s 919, 2000 2nd sp.s. c 1 s 914, 1999 c 309 s  
10 921, & 1989 c 252 s 26 as now existing or hereafter amended, is  
11 repealed effective June 30, 2022.

12 NEW SECTION. **Sec. 6.** The state treasurer shall transfer all  
13 residual funds in the cost of supervision fund to the general fund on  
14 June 30, 2022.

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