

SENATE BILL REPORT

ESSB 5974

As Passed Senate, January 31, 2024

Title: An act relating to the disposition of unenforceable legal financial obligations other than restitution imposed by a court or an agent of the court against a juvenile prior to July 1, 2023.

Brief Description: Concerning the disposition of unenforceable legal financial obligations other than restitution imposed by a court or an agent of the court against a juvenile prior to July 1, 2023.

Sponsors: Senate Committee on Human Services (originally sponsored by Senators Frame, Saldaña, Dhingra, Hasegawa, Kuderer, Nguyen, Nobles, Trudeau and Wilson, C.).

Brief History:

Committee Activity: Human Services: 1/15/24, 1/18/24 [DPS, w/oRec].

Floor Activity: Passed Senate: 1/31/24, 42-6.

Brief Summary of Engrossed First Substitute Bill

- Makes debts from juvenile nonrestitution legal financial obligations null and void and considered satisfied and paid in full by July 1, 2027, according to a specified schedule.
- Allows the presiding judge of a superior court to authorize an administrative process to waive outstanding debt.
- Authorizes the clerk of the superior court to seek a judicial order to waive outstanding debt in a specified manner.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5974 be substituted therefor, and the substitute bill do pass.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Frame, Nguyen,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Warnick and Wilson, J..

Minority Report: That it be referred without recommendation.

Signed by Senator Boehnke, Ranking Member.

Staff: Kelsey-anne Fung (786-7479)

Background: Juvenile Legal Financial Obligations. Prior to 2023, courts were authorized to impose legal financial obligations (LFOs) as part of the judgment and sentence for juveniles adjudicated of a criminal offense. LFOs include victim restitution, court costs, criminal offense fines, the crime victim penalty assessment, and other fees, penalties, and assessments.

Legislation enacted in 2023 prohibits the imposition or collection of any fine, administrative fee, cost, or surcharge by the court or any agent of the court against any juvenile or a juvenile's parent or guardian, or other person with custody of the juvenile, in connection with any juvenile offender proceeding. This includes but is not limited to fees for diversion, DNA sampling, or victims penalty assessments. A judgment against a juvenile for LFOs other than restitution is not enforceable after July 1, 2023, and the superior court clerk must not accept any nonrestitution LFO payments from a juvenile after July 1, 2023. Courts are not required to refund or reimburse amounts previously paid towards LFOs, interest on LFOs, or any other costs.

The 2023 legislation also eliminated the \$100 crime victim penalty assessment for juveniles who were found to have committed a most serious offense. Upon motion, the court must waive any crime victim penalty assessment previously imposed upon a juvenile. A new account was created in the state treasury to mitigate the fiscal impact from elimination of the crime victim penalty assessment on juveniles and indigent adults.

Summary of Engrossed First Substitute Bill: Any debt from the imposition of a legal financial obligation other than restitution shall be rendered null and void, and considered satisfied and paid in full by July 1, 2027 based on the following schedule:

- by June 30, 2025, debts resulting from cases filed from July 1, 2018, through June 30, 2023;
- by June 30, 2026, debts resulting from cases filed from July 1, 2013, through June 30, 2018; and
- by June 30, 2027, debts resulting from cases filed prior to July 1, 2013.

Nothing shall prevent a court from granting individual relief at any time in response to a motion.

The presiding judge of a superior court may at any time authorize an administrative process to waive outstanding juvenile nonrestitution LFO debt that ensures that debts:

- are waived within any statutorily required deadlines;

- do not affect an individual's credit;
- are recalled from any collections agency; and
- do not appear in any background check.

The clerk of the superior clerk may seek a judicial order to waive outstanding debt for any uncollectible LFOs, other than restitution, in the same manner as the clerk is authorized under current law to seek an extension of jurisdiction for purposes of debt collection. Any motion filed by the clerk does not constitute the practice of law.

The Administrative Office of the Courts must submit an annual report to the Legislature on the implementation of this act beginning November 1, 2024.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The debt is already uncollectible and this bill would help get the debt off the books. Individuals who have rehabilitated and are trying to move on are getting calls from debt collectors and credit rating agencies, and this debt is showing up on background checks. The goal is to automate this and clear the debt without making everyone go through the court process.

Unless there is automatic relief, debt will continue to follow and burden people. There are individuals who cannot obtain an attorney or navigate the complex legal process on their own. Automatic relief is the only form of equitable relief.

Outstanding, uncollectible LFO debt can be a barrier to successful reentry, housing, employment. It impacts credit scores and financial stability. The amount of debt also varies based on geography and race.

Clerks may be in the best position to waive LFO debt because clerks impose fines and fees on cases. Clerks already have authority to seek extension of jurisdiction for purposes of collecting debt without any motion by a party.

OTHER: Typically, when making changes to court records going forward, it must be done with a court order. When going backwards, it can be very difficult. Courts do not have enough clerks, prosecutors, defense attorneys, and staff to do forward and backwards looking criminal and civil work. One option is to fund civil legal aid attorneys to provide assistance for this specific group of cases.

Removing imposed fines is not a simple process and requires the clerk to access each affected case. Clerks do not have standing to bring motions and are prohibited from the practice of law. It is not an accounting issue but a judicial record issue. Debt may still remain on the clerk's books.

Persons Testifying: PRO: Senator Noel Frame, Prime Sponsor; Travis Comeslast; Charles Longshore; Katie Hurley, King County Department of Public Defense; Maddisson Alexander, Civil Survival; Liz Trautman, Stand for Children Washington/Debt Free Youth Justice Coalition; Anthony Smith, Department of Corrections - Washington Corrections Center.

OTHER: Lisa Henderson, Washington State Association of County Clerks; Russell Brown, WA Association of Prosecuting Attorneys.

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