

E2SHB 1390 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 10.82.090 and 2011 c 106 s 2 are each amended to
4 read as follows:

5 (1) Except as provided in subsection (2) of this section,
6 financial obligations imposed in a judgment shall bear interest from
7 the date of the judgment until payment, at the rate (~~applicable to~~
8 ~~civil judgments~~) of six percent. All nonrestitution interest
9 retained by the court shall be split twenty-five percent to the state
10 treasurer for deposit in the state general fund, twenty-five percent
11 to the state treasurer for deposit in the judicial information system
12 account as provided in RCW 2.68.020, twenty-five percent to the
13 county current expense fund, and twenty-five percent to the county
14 current expense fund to fund local courts.

15 (2) The court may, on motion by the offender, following the
16 offender's release from total confinement, reduce or waive the
17 interest on legal financial obligations levied as a result of a
18 criminal conviction as follows:

19 (a) The court shall waive all interest on the portions of the
20 legal financial obligations that are not restitution that accrued
21 during the term of total confinement for the conviction giving rise
22 to the financial obligations, provided the offender shows that the
23 interest creates a hardship for the offender or his or her immediate
24 family;

25 (b) The court may reduce interest on the restitution portion of
26 the legal financial obligations only if the principal has been paid
27 in full;

28 (c) The court may otherwise reduce or waive the interest on the
29 portions of the legal financial obligations that are not restitution
30 if the offender shows that he or she has personally made a good faith
31 effort to pay and that the interest accrual is causing a significant
32 hardship. For purposes of this section, "good faith effort" means
33 that the offender has either (i) paid the principal amount in full;
34 or (ii) made at least fifteen monthly payments within an eighteen-

1 month period, excluding any payments mandatorily deducted by the
2 department of corrections;

3 (d) For purposes of (a) through (c) of this subsection, the court
4 may reduce or waive interest on legal financial obligations only as
5 an incentive for the offender to meet his or her other legal
6 financial obligations.

7 The court may grant the motion, establish a payment schedule, and
8 retain jurisdiction over the offender for purposes of reviewing and
9 revising the reduction or waiver of interest.

10 (3) This section applies to persons convicted as adults or
11 adjudicated in juvenile court.

12 **Sec. 2.** RCW 3.50.100 and 2012 c 136 s 3 are each amended to read
13 as follows:

14 (1) Costs in civil and criminal actions may be imposed as
15 provided in district court. All fees, costs, fines, forfeitures and
16 other money imposed by any municipal court for the violation of any
17 municipal or town ordinances shall be collected by the court clerk
18 and, together with any other noninterest revenues received by the
19 clerk, shall be deposited with the city or town treasurer as a part
20 of the general fund of the city or town, or deposited in such other
21 fund of the city or town, or deposited in such other funds as may be
22 designated by the laws of the state of Washington.

23 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city
24 treasurer shall remit monthly thirty-two percent of the noninterest
25 money received under this section, other than for parking
26 infractions, and certain costs to the state treasurer. "Certain
27 costs" as used in this subsection, means those costs awarded to
28 prevailing parties in civil actions under RCW 4.84.010 or 36.18.040,
29 or those costs awarded against convicted defendants in criminal
30 actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other
31 similar statutes if such costs are specifically designated as costs
32 by the court and are awarded for the specific reimbursement of costs
33 incurred by the state, county, city, or town in the prosecution of
34 the case, including the fees of defense counsel. Money remitted under
35 this subsection to the state treasurer shall be deposited in the
36 state general fund.

37 (3) The balance of the noninterest money received under this
38 section shall be retained by the city and deposited as provided by
39 law.

1 (4) Penalties, fines, bail forfeitures, fees, and costs may
2 accrue interest at the rate of (~~twelve~~) six percent per annum, upon
3 assignment to a collection agency. Interest may accrue only while the
4 case is in collection status.

5 (5) Interest retained by the court on penalties, fines, bail
6 forfeitures, fees, and costs shall be split twenty-five percent to
7 the state treasurer for deposit in the state general fund, twenty-
8 five percent to the state treasurer for deposit in the judicial
9 information system account as provided in RCW 2.68.020, twenty-five
10 percent to the city general fund, and twenty-five percent to the city
11 general fund to fund local courts.

12 **Sec. 3.** RCW 3.62.020 and 2012 c 262 s 1, 2012 c 136 s 4, and
13 2012 c 134 s 6 are each reenacted and amended to read as follows:

14 (1) Except as provided in subsection (4) of this section, all
15 costs, fees, fines, forfeitures and penalties assessed and collected
16 in whole or in part by district courts, except costs, fines,
17 forfeitures and penalties assessed and collected, in whole or in
18 part, because of the violation of city ordinances, shall be remitted
19 by the clerk of the district court to the county treasurer at least
20 monthly, together with a financial statement as required by the state
21 auditor, noting the information necessary for crediting of such funds
22 as required by law.

23 (2) Except as provided in RCW 9A.88.120, 10.99.080, 7.84.100(4),
24 and this section, the county treasurer shall remit thirty-two percent
25 of the noninterest money received under subsection (1) of this
26 section except certain costs to the state treasurer. "Certain costs"
27 as used in this subsection, means those costs awarded to prevailing
28 parties in civil actions under RCW 4.84.010 or 36.18.040, or those
29 costs awarded against convicted defendants in criminal actions under
30 RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if
31 such costs are specifically designated as costs by the court and are
32 awarded for the specific reimbursement of costs incurred by the state
33 or county in the prosecution of the case, including the fees of
34 defense counsel. With the exception of funds to be transferred to the
35 judicial stabilization trust account under RCW 3.62.060(2), money
36 remitted under this subsection to the state treasurer shall be
37 deposited in the state general fund.

38 (3) The balance of the noninterest money received by the county
39 treasurer under subsection (1) of this section shall be deposited in

1 the county current expense fund. Funds deposited under this
2 subsection that are attributable to the county's portion of a
3 surcharge imposed under RCW 3.62.060(2) must be used to support local
4 trial court and court-related functions.

5 (4) Except as provided in RCW 7.84.100(4), all money collected
6 for county parking infractions shall be remitted by the clerk of the
7 district court at least monthly, with the information required under
8 subsection (1) of this section, to the county treasurer for deposit
9 in the county current expense fund.

10 (5) Penalties, fines, bail forfeitures, fees, and costs may
11 accrue interest at the rate of (~~twelve~~) six percent per annum, upon
12 assignment to a collection agency. Interest may accrue only while the
13 case is in collection status.

14 (6) Interest retained by the court on penalties, fines, bail
15 forfeitures, fees, and costs shall be split twenty-five percent to
16 the state treasurer for deposit in the state general fund, twenty-
17 five percent to the state treasurer for deposit in the judicial
18 information system account as provided in RCW 2.68.020, twenty-five
19 percent to the county current expense fund, and twenty-five percent
20 to the county current expense fund to fund local courts.

21 **Sec. 4.** RCW 3.62.040 and 2012 c 136 s 5 are each amended to read
22 as follows:

23 (1) Except as provided in subsection (4) of this section, all
24 costs, fines, forfeitures and penalties assessed and collected, in
25 whole or in part, by district courts because of violations of city
26 ordinances shall be remitted by the clerk of the district court at
27 least monthly directly to the treasurer of the city wherein the
28 violation occurred.

29 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city
30 treasurer shall remit monthly thirty-two percent of the noninterest
31 money received under this section, other than for parking infractions
32 and certain costs, to the state treasurer. "Certain costs" as used in
33 this subsection, means those costs awarded to prevailing parties in
34 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded
35 against convicted defendants in criminal actions under RCW 10.01.160,
36 10.46.190, or 36.18.040, or other similar statutes if such costs are
37 specifically designated as costs by the court and are awarded for the
38 specific reimbursement of costs incurred by the state, county, city,
39 or town in the prosecution of the case, including the fees of defense

1 counsel. Money remitted under this subsection to the state treasurer
2 shall be deposited in the state general fund.

3 (3) The balance of the noninterest money received under this
4 section shall be retained by the city and deposited as provided by
5 law.

6 (4) All money collected for city parking infractions shall be
7 remitted by the clerk of the district court at least monthly to the
8 city treasurer for deposit in the city's general fund.

9 (5) Penalties, fines, bail forfeitures, fees, and costs may
10 accrue interest at the rate of (~~twelve~~) six percent per annum, upon
11 assignment to a collection agency. Interest may accrue only while the
12 case is in collection status.

13 (6) Interest retained by the court on penalties, fines, bail
14 forfeitures, fees, and costs shall be split twenty-five percent to
15 the state treasurer for deposit in the state general fund, twenty-
16 five percent to the state treasurer for deposit in the judicial
17 information system account as provided in RCW 2.68.020, twenty-five
18 percent to the city general fund, and twenty-five percent to the city
19 general fund to fund local courts.

20 **Sec. 5.** RCW 35.20.220 and 2012 c 136 s 7 are each amended to
21 read as follows:

22 (1) The chief clerk, under the supervision and direction of the
23 court administrator of the municipal court, shall have the custody
24 and care of the books, papers and records of the court. The chief
25 clerk or a deputy shall be present during the session of the court
26 and has the power to swear all witnesses and jurors, administer oaths
27 and affidavits, and take acknowledgments. The chief clerk shall keep
28 the records of the court and shall issue all process under his or her
29 hand and the seal of the court. The chief clerk shall do and perform
30 all things and have the same powers pertaining to the office as the
31 clerks of the superior courts have in their office. He or she shall
32 receive all fines, penalties, and fees of every kind and keep a full,
33 accurate, and detailed account of the same. The chief clerk shall on
34 each day pay into the city treasury all money received for the city
35 during the day previous, with a detailed account of the same, and
36 taking the treasurer's receipt therefor.

37 (2) Except as provided in RCW 9A.88.120 and 10.99.080, the city
38 treasurer shall remit monthly thirty-two percent of the noninterest
39 money received under this section, other than for parking infractions

1 and certain costs to the state treasurer. "Certain costs" as used in
2 this subsection, means those costs awarded to prevailing parties in
3 civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded
4 against convicted defendants in criminal actions under RCW 10.01.160,
5 10.46.190, or 36.18.040, or other similar statutes if such costs are
6 specifically designated as costs by the court and are awarded for the
7 specific reimbursement of costs incurred by the state, county, city,
8 or town in the prosecution of the case, including the fees of defense
9 counsel. Money remitted under this subsection to the state treasurer
10 shall be deposited in the state general fund.

11 (3) The balance of the noninterest money received under this
12 section shall be retained by the city and deposited as provided by
13 law.

14 (4) Penalties, fines, bail forfeitures, fees, and costs may
15 accrue interest at the rate of (~~twelve~~) six percent per annum, upon
16 assignment to a collection agency. Interest may accrue only while the
17 case is in collection status.

18 (5) Interest retained by the court on penalties, fines, bail
19 forfeitures, fees, and costs shall be split twenty-five percent to
20 the state treasurer for deposit in the state general fund, twenty-
21 five percent to the state treasurer for deposit in the judicial
22 information system account as provided in RCW 2.68.020, twenty-five
23 percent to the city general fund, and twenty-five percent to the city
24 general fund to fund local courts.

25 **Sec. 6.** RCW 43.43.7541 and 2011 c 125 s 1 are each amended to
26 read as follows:

27 Every sentence imposed for a crime specified in RCW 43.43.754
28 must include a fee of one hundred dollars unless the state has
29 previously collected the offender's DNA as a result of a prior
30 conviction. The fee is a court-ordered legal financial obligation as
31 defined in RCW 9.94A.030 and other applicable law. For a sentence
32 imposed under chapter 9.94A RCW, the fee is payable by the offender
33 after payment of all other legal financial obligations included in
34 the sentence has been completed. For all other sentences, the fee is
35 payable by the offender in the same manner as other assessments
36 imposed. The clerk of the court shall transmit eighty percent of the
37 fee collected to the state treasurer for deposit in the state DNA
38 database account created under RCW 43.43.7532, and shall transmit
39 twenty percent of the fee collected to the agency responsible for

1 collection of a biological sample from the offender as required under
2 RCW 43.43.754.

3 **Sec. 7.** RCW 10.01.160 and 2010 c 54 s 1 are each amended to read
4 as follows:

5 (1) The court may require a defendant to pay costs. Costs may be
6 imposed only upon a convicted defendant, except for costs imposed
7 upon a defendant's entry into a deferred prosecution program, costs
8 imposed upon a defendant for pretrial supervision, or costs imposed
9 upon a defendant for preparing and serving a warrant for failure to
10 appear.

11 (2) Costs shall be limited to expenses specially incurred by the
12 state in prosecuting the defendant or in administering the deferred
13 prosecution program under chapter 10.05 RCW or pretrial supervision.
14 They cannot include expenses inherent in providing a constitutionally
15 guaranteed jury trial or expenditures in connection with the
16 maintenance and operation of government agencies that must be made by
17 the public irrespective of specific violations of law. Expenses
18 incurred for serving of warrants for failure to appear and jury fees
19 under RCW 10.46.190 may be included in costs the court may require a
20 defendant to pay. Costs for administering a deferred prosecution may
21 not exceed two hundred fifty dollars. Costs for administering a
22 pretrial supervision may not exceed one hundred fifty dollars. Costs
23 for preparing and serving a warrant for failure to appear may not
24 exceed one hundred dollars. Costs of incarceration imposed on a
25 defendant convicted of a misdemeanor or a gross misdemeanor may not
26 exceed the actual cost of incarceration. In no case may the court
27 require the offender to pay more than one hundred dollars per day for
28 the cost of incarceration. Payment of other court-ordered financial
29 obligations, including all legal financial obligations and costs of
30 supervision take precedence over the payment of the cost of
31 incarceration ordered by the court. All funds received from
32 defendants for the cost of incarceration in the county or city jail
33 must be remitted for criminal justice purposes to the county or city
34 that is responsible for the defendant's jail costs. Costs imposed
35 constitute a judgment against a defendant and survive a dismissal of
36 the underlying action against the defendant. However, if the
37 defendant is acquitted on the underlying action, the costs for
38 preparing and serving a warrant for failure to appear do not survive

1 the acquittal, and the judgment that such costs would otherwise
2 constitute shall be vacated.

3 (3) The court shall not order a defendant to pay costs unless the
4 defendant is or will be able to pay them. In determining the amount
5 and method of payment of costs, the court shall take account of the
6 financial resources of the defendant and the nature of the burden
7 that payment of costs will impose. However, this subsection does not
8 create a statutory obligation for the trial court to make an
9 individualized inquiry into a defendant's current and future ability
10 to pay before the court imposes costs. A trial court shall not be
11 required to conduct a case by case analysis and evaluate an
12 individual defendant's circumstances but may use standard language in
13 a judgment and sentence that makes the findings required under this
14 subsection. A defendant may seek modification of the judgment and
15 sentence order in the event the defendant is unable to pay as allowed
16 by law and court rule.

17 (4) A defendant who has been ordered to pay costs and who is not
18 in contumacious default in the payment thereof may at any time
19 petition the sentencing court for remission of the payment of costs
20 or of any unpaid portion thereof. If it appears to the satisfaction
21 of the court that payment of the amount due will impose manifest
22 hardship on the defendant or the defendant's immediate family, the
23 court may remit all or part of the amount due in costs, or modify the
24 method of payment under RCW 10.01.170.

25 (5) Except for direct costs relating to evaluating and reporting
26 to the court, prosecutor, or defense counsel regarding a defendant's
27 competency to stand trial as provided in RCW 10.77.060, this section
28 shall not apply to costs related to medical or mental health
29 treatment or services a defendant receives while in custody of the
30 secretary of the department of social and health services or other
31 governmental units. This section shall not prevent the secretary of
32 the department of social and health services or other governmental
33 units from imposing liability and seeking reimbursement from a
34 defendant committed to an appropriate facility as provided in RCW
35 10.77.084 while criminal proceedings are stayed. This section shall
36 also not prevent governmental units from imposing liability on
37 defendants for costs related to providing medical or mental health
38 treatment while the defendant is in the governmental unit's custody.
39 Medical or mental health treatment and services a defendant receives
40 at a state hospital or other facility are not a cost of prosecution

1 and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter
2 43.20B RCW, and any other applicable statute.

3 NEW SECTION. **Sec. 8.** Nothing in this act requires the courts to
4 refund or reimburse amounts previously paid towards legal financial
5 obligations or interest on legal financial obligations."

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6 On page 1, line 1 of the title, after "obligations;" strike the
7 remainder of the title and insert "amending RCW 10.82.090, 3.50.100,
8 3.62.040, 35.20.220, 43.43.7541, and 10.01.160; reenacting and
9 amending RCW 3.62.020; and creating a new section."

EFFECT: As of the effective date of the act, legal financial obligations bear a six percent interest rate. The new provisions dealing with imposing costs at the time of sentencing for indigent defendants are removed. The new provisions regarding sanctioning proceedings and standards for finding an unwillful failure to pay legal financial obligations are removed. The trial court is not required to make an individualized inquiry into the defendant's current or future ability to pay before the court imposes costs. The defendant may seek a modification in the event that he or she is unable to pay as allowed by statute or court rule.

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