

LEGAL FINANCIAL OBLIGATIONS IN WASHINGTON STATE

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Budget Matters Conference
November 16, 2016

LFO POLICY IN WASHINGTON

What are LFOs?

Legal Financial Obligations (LFOs) are the total debts owed to a federal, state or local court as the result of an infraction or crime.

□ **Statutory Definitions**

- General Statute: RCW 36.110.020(4)
- Superior Court Statute: RCW 9.94A.030(30)

□ **Criminal Debts**

- Fees, fines, costs, restitution

□ **Imposed:**

- In all courts
- For all offenses



Assigned at Time of Sentencing

- ▣ Washington counties can assign more than 20 different LFOs with a 12% accruing interest rate attached
 - Interest rate was passed in 1983
 - Interest begins to accrue on the date of incarceration
 - Individuals do not start to pay until they are released

Problems with LFO Policy in WA

- **High interest rate**
- **Ability to pay standards vague or non-existent**
 - ▣ At sentencing – mandatory vs. discretionary costs and fines
 - ▣ At enforcement – willfulness
 - ▣ At remission – “manifest hardship”
- **Punishment/Consequences for failure to pay**
 - ▣ Arrest, incarceration, civil collection, etc.
- **Few Alternatives to Payment and Relief Options**
- **Sentencing Requirements**
 - ▣ Payment is condition of sentence (superior court)
 - ▣ No expiration
 - ▣ Cannot vacate or seal
- **Affects Restoration of Rights**
- **Restitution**

Client Stories

□ **Statewide Investigation/Reentry Clinic**

- Barrier to successful reentry
- Imposed regularly on indigent defendants
- Cannot be looked at in isolation
- Impacts employment opportunities
- Keeps people tied to the system for years
- Entrenches people in poverty
- Racially disproportionate
- Forces tough decisions
- Breaks up families



What should policy reform look like?

- 1) Comprehensive
 - Addresses all issues such as how judges assign, prioritizes victim's compensation, who can pay and how, retroactive
- 2) Based on community input
 - Various impacted groups shaping policy
- 3) Addresses poverty and race inequities
 - Looks at impact on POC
- 4) provides clear and uniform guidance to courts
 - All counties assign and collect under the same policies
- 5) Does not create negative unintended consequences
 - Ending jailing for failure to pay when a person cannot afford to pay

Those Closest to the Problem are Closest to the Solution



Two Bills to Address Issues

□ HB1390

▣ Passed House 97-0 in 2016

- New assessments for individual's ability to pay prior to sentencing: The judge must determine an individual's ability to pay LFOs and take into account whether they person is homeless, jobless, indigent or receiving public benefits such as SSI or TANF, and if s/he has a mental illness.
- All non-restitution interest would be eliminated. The rate for restitution interest would remain at 12%.
- After sentencing, the court can convert unpaid LFOs to community service with the consent of the individual.
 - ✓ Payment Plan Options
 - ✓ The payment plan can readjust if one's income fluctuates due to loss of job.
- Jail sentence for failure to pay would be reserved only for those who can afford to but are willfully not paying
- \$100 DNA fee would be eliminated if the defendant has paid previously.
- Payments towards restitution will be prioritized above all others.

Second Bill

□ HB2085

- Would direct courts to declare any defendant who qualified for a public defender to be indigent and grant him or her the option of performing community service rather than paying the fine, if community service is available.

What is needed to accomplish reform?

- Republican support
- Influence Law & Justice Committee Chair, Sen Mike Padden
- Collaboration with judges
- Support from communities
- Public Education
- Prioritizing/Investment in Reentry Services so people can get the support and skills they need
 - ▣ Job training, trauma-informed MH services, housing programs