

## Summary of Legislative Bill Proposals As of 1/28/2021

**HB 1412 - Concerning  
legal financial obligations**  
**2/3/21 Public Hearing:**  
**CR&J @ 10a**

- > Allows the court to determine at any time that, if a person does not have the means to pay restitution, the person is not required to pay or may relieve the requirement to pay full or partial restitution and accrued interest on restitution to any insurer or entity that is not an individual.
- > Modifies the reason the court may extend the criminal judgment an additional 10 years for payment of restitution to if the person "willfully failed to pay the restitution obligation."
- > Eliminates the requirement that offenses committed on or after 7/1/2000 the person shall remain under the court's jurisdiction until the obligation is completely satisfied regardless of the statutory max for the crime.
- > Modifies that the superior court may extend the criminal judgment an additional 10 years for restitution only if the court finds the person has willfully failed to pay the obligation and allows that all legal financial obligations other than restitution may be enforced at any time during the 5 yr period following the person's release from total confinement or within 5 yrs of the entry of the J&S, whichever is later.
- > Creates language so that a person who has been ordered to pay fines and has not willfully failed to pay may at any time petition the sentencing court for remission of the payment.
- > Creates a definition of indigent for the purposes of the section.
- > Modifies the date restitution shall bear interest to include the person's date of release from total confinement in addition to the date of judgment, whichever is later; all restitution interest accrued prior to 6/7/2018 shall be automatically waived without motion of the defendant.
- > Allows the court to not impose interest on any restitution ordered based on a determination of specific factors.
- > Eliminates the restriction that the crime victim penalty assessment may not be reduced, waived, or converted to community restitution hours if the court finds violation for nonpayment of LFOs was not willful.
- > Upon motion by the defendant, the court shall waive all but one previously imposed DNA fee.
- > Creates definition of Legal Financial Obligation

**RECOMMENDATION 40 - Address interest on restitution:**

- Change current law to give judges the discretion to waive or suspend interest on restitution, rather than it being mandatory, based on a finding of current or likely future ability to pay.
- Where imposed, allow accrual of interest to begin following release from the term of total confinement.
- ~~Lower the current 12% interest rate.~~

**RECOMMENDATION 42 - Authorize courts to relieve, either in part or full, restitution payments owed to entities by individuals who a court determines lack the means to make payments now or in the realistic future.**

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	<p>RECOMMENDATION 44 - Create statutory authority for courts to review and adjust or waive fines.</p> <p>RECOMMENDATION 46 (Partial Consensus)  <del>–Victim Penalty Assessment:</del></p> <ul style="list-style-type: none"> <li><del>• Upon motion by the defendant, the court be given the discretion to reduce or waive the VPA upon a finding by the court that the defendant lacks the present and future ability to pay.</del></li> <li><del>• The court be given the discretion to eliminate stacking of multiple VPAs (multiple VPAs imposed at same time) based on a finding that the defendant lacks the present and future ability to pay.</del></li> </ul> <p>- DNA Collection Fee and Criminal Filing Fee:</p> <ul style="list-style-type: none"> <li>• Upon motion by the defendant, the court should be given the discretion to waive all but one previously imposed DNA collection fee.</li> <li>• Upon motion by the defendant, the court should be given the discretion to waive any criminal 36 Washington State Criminal Sentencing Task Force December 2020 Report filing fee(s) imposed at sentencing upon a finding by the court that the defendant is indigent and lacks the ability to pay.</li> </ul>
<p><b>SB 1293 - Reducing unduly harsh sentences for offenses committed by domestic violence survivors</b></p> <p><b>2/2/21 Public Hearing: Public Safety @ 8a</b></p>	<p><u>Survivors Justice Act</u></p> <ul style="list-style-type: none"> <li>&gt; Allows the court to reduce any term of incarceration or other criminal penalties under Chapter 9.94A RCW or impose available alternatives under section 3 when the defendant is a survivor of DV.</li> <li>&gt; The court may consider certain factors when making a finding that defendant qualifies as survivor of DV.</li> <li>&gt; Court is allowed to impose a sentence below standard range and below mandatory minimums under RCW 9.94A.540 (mand mins) and .570 (Persistent Offender); depart downward from any sentencing enhancements; or impose the sentencing alternative under section 3.</li> <li>&gt; Section 3: Creates a new sentencing alternative giving the court discretion to: <ul style="list-style-type: none"> <li>- Waive standard range sentence and any enhancements and replaced with a reduced term of confinement with extended term of community custody; or</li> <li>- Waive term of confinement and impose extended term of community custody.</li> </ul> </li> <li>&gt; Allows those sentenced prior to effective date of act to petition sentencing court for resentencing on the basis that person is a survivor of DV.</li> <li>&gt; Creates a new mitigating factor when the defendant is a survivor of DV and the sentence would be unduly harsh given the nature and circumstances of the crime and the history, character, and condition of the defendant.</li> </ul>

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	<p>&gt; Allows any person discharged under RCW 9.94A.637 or who has completed conditions of his/her sentence to apply to the sentencing court for a vacation of his/her record of conviction for an offense occurring prior to the effective date of this act on the basis that the person is a survivor of DV.</p> <p>RECOMMENDATION 7 - Create meaningful opportunities for pre-and post-arrest diversion, resentencing, and record sealing for individuals who committed crimes due to coercion by an abuser, and against or at the behest of an abuser.</p> <ul style="list-style-type: none"> <li>• Allow prosecuting attorneys and judges to reduce prison sentences and redirect sentencing from incarceration to community-based programs, which has proven far more effective in rehabilitating survivors;</li> <li>• Permit currently incarcerated survivors to apply for resentencing and earlier release due to their prior victimization; and</li> <li>• Create process for record sealing. Promotes/improves public safety: Domestic violence and incarceration rates are highly linked, as over 90 percent of incarcerated women have experienced physical or sexual violence in their lifetime.</li> </ul> <p>Because many women have gone to prison for defending themselves against their batterer or were coerced into illegal activity by their abuser, this would take a step toward ending this cycle of violence and incarceration, and places the burden on the batterer rather than the victim.</p>
<p><b>HB 1348 - Providing medical assistance to incarcerated persons</b> <b>2/4/21 Public Hearing: HC&amp;W @ 10a</b></p>	<p>&gt; Adds that HCA shall suspend medical assistance benefits for persons incarcerated in a correctional institution for 30 days or more; a person’s incarceration status may not affect enrollment in medical assistance prior to 30 days of incarceration in a correctional institution. After 30 days in a facility, an incarcerated person must be allowed to apply.</p> <p>&gt; Gives HCA authority to seek necessary state plan amendments or waivers from the federal Dept of Health and Human Services to implement this section.</p>
<p><b>SB 5118 - Supporting successful reentry</b> <b>2/1/21 Public Hearing: W&amp;M @ 4p</b></p>	<p><u>RCW 9.98.010</u> - Excludes certain time periods from the 120-day calculation related to the time period in which one is brought to trial.</p> <p><u>RCW 36.70A.200</u> - Adds community facilities as defined in RCW 72.05.020 to the definition of essential public facilities.</p> <p><u>New Section</u> - Requires DOC to send written notice at least 30 days before release to a person's health care insurance provider, or assist the person in obtaining coverage.</p>

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<p><b>SB 5180 - Vacating certain convictions</b> <b>2/1/21 Public Hearing: L&amp;J @ 9:30a</b></p>	<ul style="list-style-type: none"> <li>&gt; Creates definitions for "Victim of domestic violence" and "Victim of sexual assault"</li> <li>&gt; Adds language allowing victims of sex trafficking, prostitution, commercial sexual abuse of a minor, sexual assault, or domestic violence, or the prosecuting attorney of the county in which the victim was sentenced to apply to the sentencing court to vacate the victim's record of conviction for a class B or class C felony offense.&gt; Requires HCA to amend managed health care contracts to require contractors to implement mandatory performance improvement projects related to reducing client involvement with the criminal justice system where there is an identifiable behavioral health need.</li> </ul>
<p><b>SB 5307 - Establishing the uniform pretrial release and detention act</b> <b>2/1/21 Public Hearing: L&amp;J @ 9:30a</b></p> <p><b>Uniform Law Commission request bill</b></p>	<p><u>Creates the Uniform Pretrial Release and Detention Act via a new chapter in Title 10 RCW</u></p> <ul style="list-style-type: none"> <li>&gt; Requires LEO who arrests a person without warrant to detain the person in a facility until the person's first post arrest appearance only upon probable cause.</li> <li>&gt; If person is not released under section 203, the person is entitled to a hearing within 48 hrs of arrest to determine release pending trial.</li> <li>&gt; An arrestee has a right to counsel and to be heard at a release hearing.</li> <li>&gt; At a release hearing, the court shall determine by clear and convincing evidence whether the person poses a risk that is relevant to pretrial release.</li> <li>&gt; At a release hearing, the court shall issue an order of pretrial release on recognizance if the person is not determined to pose a risk.</li> <li>&gt; Makes practical assistance and voluntary support services available to arrestee if determined a risk to pretrial release.</li> <li>&gt; If the court determines that practical assistance or voluntary support services are not sufficient to address relevant risk, the court shall impose the least restrictive condition(s) reasonably necessary to address the risk and issue an order of pretrial release.</li> <li>&gt; The court may not impose a restrictive condition that requires initial payment of a fee greater than the person is able to pay within 24 hrs after the condition is imposed. If the person is unable to pay the fee, the court shall waive or modify the fee or the restrictive condition to the extent necessary to release the individual.</li> <li>&gt; Court may issue an order to detain person temporarily until a detention hearing or may impose a financial condition of release in an amount greater than the person is able to pay within 24 hrs after the condition is imposed.</li> <li>&gt; Created rules related to detention hearings</li> <li>&gt; Effective as of 1/1/22</li> </ul>

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<p><b>SB 5614 - Resentencing of individuals sentenced as a persistent offender due to a robbery 2 conviction</b> <b>2/1/21 Public Hearing: L&amp;J @9:30a</b></p>	<p><u>New Section</u> - Requires any person sentenced as a persistent offender before 7/28/19 with a current or past conviction for Rob 2 was used as a basis for the finding of persistent offender to have a resentencing hearing. At resentencing, the court shall sentence the person as if Rob 2 was not a most serious offense at the time the original sentence was imposed. Section expires 7/1/2023.</p>
<p><b>HB 5339 - Concerning juvenile records</b> <b>1/28/21 Public Hearing: HSR&amp;R @ 1:30p</b></p>	<ul style="list-style-type: none"> <li>&gt; Creates a definition of "expunge" in Chapter 13.50 RCW.</li> <li>&gt; Removes drug offenses (as defined in 9.94A.030) from the list of offenses that do not get an administrative sealing hearing.</li> <li>&gt; Requires the WSP to remove all juvenile records sealed prior to 7/24/2015 from the Washington state identification system and any other system they maintain.</li> <li>&gt; Allows the subject of any previously sealed juvenile record to petition the court to destroy and expunge the official juvenile court file provided:             <ul style="list-style-type: none"> <li>- the history is not a class A felony, felony sex offense, and the offense(s) are no longer subject to inclusion in RCW 9.94A.525;</li> <li>- all obligations have been completed;</li> <li>- restitution has been paid in full;</li> <li>- no proceeding is pending seeking the conviction of a criminal offense; and</li> <li>- in cases where the history consists of more than one offender case, an additional two years for each subsequent case have passed since the cases have not been subject to inclusion in RCW 9.94A.525.</li> </ul> </li> <li>&gt; Subject to RCW 13.50.050(13), WSP shall expunge all information relating to the case from the WA state ID system.</li> <li>&gt; Administrative Office of the Courts shall maintain the confidentiality and shall preserve and assure the anonymity of all persons identified in the research copy.</li> <li>&gt; Expunged record information maintained by the county clerk and available for public view shall be limited to the case number and date expunged.</li> </ul>