

## I. Relief from Legal Financial Obligations

1. **POTENTIAL RECOMMENDATION:** Authorize courts to relieve restitution payments in part or full to any insurance provider for individuals who lack the means to make payments.
  - a. ***Reduces complexities and errors:*** Allow the court to consider defendant's ability to pay, allowing for individualized relief that is reflective of a person's financial situation. After many years, it can be difficult to track where restitution not owed to individuals is going, or whether payment is even being tracked.
  - b. ***Improves effectiveness of the sentencing system:*** Under statute, courts cannot consider ability to pay at sentencing before imposing restitution. Also, under the SRA there is no way to seek relief from principal on restitution
  - c. ***Promotes/improves public safety:*** 12% interest rate applied to LFO while an individual is incarcerated. Current relief programs available only upon release. Reduces post-incarceration financial strain; allows ppl to become productive community members.
  - d. Task Force input to date:
    - i. Last session, SB 6220 introduced, which would apply to restitution owed insurance companies. Should TF consider not only insurance but LFOs not owed to an individual – state agencies, hospitals, etc?
    - ii. Would allow defendant to request relief from restitution not owed to individuals showing that they lack the ability to pay. Would TF also want to consider this at sentencing for victims who are not individuals?
2. **POTENTIAL RECOMMENDATION:** Allow for automatic waiver of existing non-restitution interest.
  - a. ***Reduces complexities and errors:*** Would eliminate the need for defendant to file motion.
  - b. ***Improves effectiveness of the sentencing system:*** Efficiency – would not require administrative time
  - c. ***Promotes/improves public safety:*** People return to prison because of their inability to pay LFO – additional financial relief options would increase community stability and cost of incarceration to the state.
  - d. Task Force input to date:
    - i. Does the constitutional prohibition of “gifting” money to the people apply?

DRAFT Potential Recommendations

**3. POTENTIAL RECOMMENDATION:** Allow for relief of interest on restitution.

- a. ***Reduces complexities and errors:*** Elimination of the 12% interest rate would reduce complexities, as only the principal would be owed
- b. ***Improves effectiveness of the sentencing system:*** Interest accrues on restitution at 12% per year from date of judgment. In some instances, allows for amounts to increase exponentially, and can serve as a disincentive to payment.
- c. ***Promotes/improves public safety:*** Puts people in a situation where they are able to reenter their communities without the burden of court debt so that they can be economically stable.
- d. Task Force input to date:
  - i. Concern about the logistics and coordination of LFOs between state entities and the complications that can arise.
  - ii. Idea for a county clerk to give a presentation on how interest rate is assessed.

**4. POTENTIAL RECOMMENDATION:** Allow individuals to address LFOs while still incarcerated – provide relief options while people are incarcerated.

- a. ***Reduces complexities and errors:*** This law can be very confusing for people in prison who seek relief. Motion will be denied and they will never seek relief again believing they are permanently barred. This recommendation would expand eligibility of requesting such relief to individuals currently incarcerated. Incarcerated individuals requesting relief would still be subject to the same criteria as those in the community (i.e., the court has discretion to determine whether individuals or family members are experiencing hardship).
- b. ***Improves effectiveness of the sentencing system:*** Would allow individuals to address LFOs while still incarcerated, which could allow for improved financial situation upon release. Discretion still lies with the court
- c. ***Promotes/improves public safety:*** Addressing LFOs while in prison, if relief granted, can help individual leave prison in a better financial position.
- d. Task Force input to date:
  - i. Concern: some expressed concerns if propose mandatory waiver.

DRAFT Potential Recommendations

5. **POTENTIAL RECOMMENDATION:** Have statute of limitations on collection of LFOs.
- a. ***Reduces complexities and errors:*** Under SRA, court has jurisdiction to collect LFOs until paid in full. Could reduce complexity by eliminating cases that are several years or decades old instead of ongoing tracking.
  - b. ***Improves effectiveness of the sentencing system:*** Would allow for elimination of old accounts where person lacks ability to pay yet has completed all other conditions of sentence
  - c. ***Promotes/improves public safety:*** This recognizes that at some point there needs to be finality to a conviction, which allows individuals to move past the conviction and successfully reintegrate back into their communities over time.
  - d. Task Force input to date:
    - i. Consider differentiating between restitution owed to individual and that owed to an entity (eg insurance company, state agency, non-individuals)
6. **POTENTIAL RECOMMENDATION:** Create statutory authority for courts to review and adjust or waive fines.
- a. ***Reduces complexities and errors:*** Reduces the likelihood of error that the amount an individual is required to pay at sentencing was either not accurate at the time or is not reflective of his/her current ability to pay.
  - b. ***Improves effectiveness of the sentencing system:*** Currently, there is very limited affirmative statutory authority for courts to waive, reduce fines. Unlike costs, there is no specific waiver statute, even though fines can be just as problematic.
  - c. ***Promotes/improves public safety:*** This recognizes that at some point there needs to be finality to a conviction, which allows individuals to move past the conviction and successfully reintegrate back into their communities over time.
  - d. Task Force input to date:
    - i. Concerns: most cases are settled in plea agreements, so there is an expectation the person has considered their ability to pay, but also recognize that an individual's circumstances can change
    - ii. Info need: are there lessons learned/best practices that can be gleaned from other states?

DRAFT Potential Recommendations

- 7. POTENTIAL RECOMMENDATION:** Consider developing and implementing guidance for local jurisdictions to follow governing the transfer of LFOs to collection agencies.
- a. ***Reduces complexities and errors:*** More guidance on when and how collection agencies can collect debts would reduce complexities for debtors, who oftentimes do not know who controls their debt, how to access relief from this debt, how to access payments that are reflective of their ability to pay, etc.
  - b. ***Improves effectiveness of the sentencing system:*** Reduce financial burden to people with LFOs who lack ability to pay whose accounts are turned over to collections. Reduces ability to continue to add fees, surcharges, costs to existing debts that are disproportionately owed by people with little or no ability to pay.
  - c. ***Promotes/improves public safety:*** This recognizes that at some point there needs to be finality to a conviction, which allows individuals to move past the conviction and successfully reintegrate back into their communities over time.
  - d. Task Force input to date:
    - i. Info need: what lessons learned/best practices can be gleaned from Oregon's Department of Revenue?
- 

(Community Supervision Potential Recommendations begin on page 5)

## II. Community Supervision

1. **POTENTIAL RECOMMENDATION:** Develop and implement a formal motivational & coaching focused supervision model, which includes trauma informed care and core correctional practices and allows for a more responsive and individualized case management approach to facilitate successful transitions and reentry to the community. This supervision model should consider staffing needs, caseload, and program/service delivery, including how community corrections officers dress during routine home and work checks.
  - a. ***Reduces complexities and errors:*** N/A
  - b. ***Improves effectiveness of the sentencing system:*** Focusing correctional & reentry programming and practices on these needs [thinking patterns, substance addictions, etc.] can help build a roadmap for creating individualized case plans and identifying interventions that will be most effective in reducing recidivism.” CSG Reentry Matters, 2018
  - c. ***Promotes/improves public safety:*** Opportunity to refocus and reframe DOC work to align a supervision model to research from the SGC. Allow flexibility to respond to specific individual needs. First year of release is a critical time.
  - d. Task Force input to address:
    - i. Need to consider safety – for individuals, officers, and communities.
    - ii. Concern: that this recommendation is very specific
    - iii. What are the fiscal impacts?
    - iv. Consider: Separating case management and enforcement responsibilities
    - v. Need: additional information how motivational/coaching approach is guided by research and data
      1. <https://www.doc.wa.gov/docs/publications/reports/wsu-second-chance-grant-report.pdf>
      2. <https://csgjusticecenter.org/wp-content/uploads/2020/02/ReentryMatters.pdf>
      3. [https://www.pewtrusts.org/-/media/assets/2018/09/probation\\_and\\_parole\\_systems\\_marked\\_by\\_high\\_stakes\\_missed\\_opportunities\\_pew.pdf](https://www.pewtrusts.org/-/media/assets/2018/09/probation_and_parole_systems_marked_by_high_stakes_missed_opportunities_pew.pdf)

Reentry & Reducing Recidivism Working Group

DRAFT Potential Recommendations

**2. POTENTIAL RECOMMENDATION:** Conduct routine home and work visits in a manner conducive to successful reentry.

- a. ***Reduces complexities and errors:***
- b. ***Improves effectiveness of the sentencing system:***
- c. ***Promotes/improves public safety:*** Showing up at homes and workplaces with highly visible external bulletproof vests, visible side arms, vests that say DOC or POLICE in huge letters, is not conducive to ongoing employment, family reunification, or successful reentry. Executing a high-risk warrant, finding someone who has absconded, or is otherwise reasonably considered to create a known and present danger, is a different situation. This is not to say officers cannot show up prepared for a dangerous scenario on routine visits, it is only saying that the models of plain clothes officers, followed by LEO's across the world, be followed in these situations.
- d. Task Force input to address:
  - i. Should this be an element of potential recommendation #1? Or as a separate recommendation?
  - ii. Does this fit better into a policy recommendation instead of a legislative recommendation?

**3. POTENTIAL RECOMMENDATION:** Early access to reentry services for all individuals being released from confinement associated with felony convictions.

- a. ***Reduces complexities and errors:*** N/A
- b. ***Improves effectiveness of the sentencing system:*** Early access to reentry services improves effectiveness & promotes public safety by: reducing recidivism and supporting community integration.
- c. ***Promotes/improves public safety:*** Individuals have access to more resources when at most risk to commit another crime (greatest risk of recidivism in first 3 months following release from jail; and similar risk within first year of release for prison – SGC, 2019).
- d. Task Force input to address:
  - i. Providing reentry support and resources to counties/cities (for developing and sustaining reentry programs)
  - ii. Consider: access to resources and opportunities for productivity should also be ongoing and with appropriate sequencing and timing; potential roles for navigators.

Reentry & Reducing Recidivism Working Group

DRAFT Potential Recommendations

- 4. POTENTIAL RECOMMENDATION:** simplify tolling of supervision terms: terms of confinement shall be tolled for any period of time when an individual has absented themselves from supervision without the prior approval of the entity in whose custody the individual has been placed, during which a Secretary's Warrant has been issued; a period of time for which a Bench Warrant has been issued as specified by the court; while an individual is serving confinement time as part of the original sentence; and any period of time in confinement for a subsequent felony conviction (including pre-sentence confinement as confirmed by the detaining facility, a return per RCE 9.94A.633, or reclassification per RCW 9.94A.660/664).
- a. ***Reduces complexities and errors:*** Tolling information not easily available through data systems and sentence recalculation is complex. If tolling was simplified majority of errors would be eliminated.
  - b. ***Improves effectiveness of the sentencing system:*** Simplified tolling events will enhance transparency so individuals have a better understanding of when they are on/off supervision and when supervision will end.
  - c. ***Promotes/improves public safety:*** see b (above).
  - d. ***Task Force input to address:***
    - i. Administration of tolling
    - ii. Data and information needs – who is on supervision?
    - iii. what is the intent of tolling? Balancing accountability of actions while ensuring engagement of terms of supervision
    - iv. concern: elimination of all tolling events, but also recognize administrative challenges for short (1-2 days) tolling events. What additional tolling events could continue? (or criteria could be considered).
- 5. POTENTIAL RECOMMENDATION:** Supervision (including eligibility, duration, and sequencing and intensity of requirements/programs) should be based on an individual's Risk Needs Responsivity (RNR) and research and evidence-based practices and not solely on their conviction(s).
- a. ***Reduces complexities and errors:*** Courts have limitations regarding who can receive supervision at sentencing (based on offense), then DOC has limitations on who can actually be supervised. RNR approach would allow the interventions and services to match individual need and risk and provide opportunities to reassess need and risk.
  - b. ***Improves effectiveness of the sentencing system:*** SGC Report (2019): "WSIPP's cost-benefit data shows RNR supervision strategies can reduce technical violations by 16% and provide a benefit of more than \$8,000 per person after costs." WA State Institute

## Reentry & Reducing Recidivism Working Group

### DRAFT Potential Recommendations

for Public Policy (WSIPP) is conducting an evaluation of WA's RNR program. Report will be released June 2020.

- c. ***Promotes/improves public safety:*** by reducing recidivism and supporting community integration.
- d. Task Force input to date:
  - i. Consider using RNR to determine supervision needs (who, for how long, how supervised) At what point(s) in time should RNR be assessed?
  - ii. Need: clearly demonstrate how this approach is guided by research and data
  - iii. Does this recommendation need to be more specific?

6. **POTENTIAL RECOMMENDATION:** Addressing liability concerns (previously referred to as tort reform) will be an important element of any new supervision model. The creation of a small group with key interests represented should address this issue outside the Task Force.

DRAFT