

**WASHINGTON DEFENDER ASSOCIATION**  
**WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE LAWYERS**

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March 12, 2018

Governor Jay Inslee  
Office of the Governor  
PO Box 40002  
Olympia, WA 98504-0002

Re: Veto Request HB 1058

Dear Governor Inslee:

We are writing to urge that you veto section HB 1058, which prohibits judges from deferring minimum criminal restitution payments while an offender is in prison. HB 1058 is squarely at odds with the comprehensive and holistic Legal Financial Obligation (LFO) reform now before you for signature under E2SHB 1783.

WACDL and WDA recognize that crime victims must receive timely compensation for their injuries and other losses. This is one of many reasons why WACDL and WDA supported comprehensive LFO reform with the passage of E2SHB 1783. That bill prioritizes victim restitution through holistic changes to Washington's LFO laws. Specifically, that bill provides that victims will be paid before insurance companies; that victims will receive the exclusive benefit of interest rates; and that victims fund fees will be spent entirely on victims. At the same time, E2SHB 1783 clearly distinguishes between refusal to pay and inability to pay (due to poverty). By addressing Washington's LFO scheme holistically, E2SHB 1783 prioritizes both our need to assist crime victims and our need to protect the indigent.

HB 1058, by contrast, runs counter to the fundamental purposes of LFO reform. Presently, judges employ their discretion to set payment schedules that will best promote re-entry. Successful re-entry, in turn, promotes an offender's ability to repay his victim(s). Immediacy is often neither in the interest of the offender, the victim, or society. Judges are in the best position to assess this tension and to assess an offender's actual resources. HB 1058 would eliminate this vital judicial discretion, and mandate that minimum monthly payments begin during an offender's prison sentence.

Particularly troubling is that HB 1058 deems an offender able to pay if he refuses a "class I or class II" correctional industries employment offer. While there is certainly nothing wrong with encouraging an inmate to work toward repaying his debt, mandating acceptance of employment through a financial penalty is misguided. An inmate's ability to work may be complicated by any number of factors. Navigating life in prison is complicated. Mental health services to address disability issues are limited. We should not simply presume that declining a job offer is an indication that an inmate is refusing to repay his victim(s). Such a presumption turns the entire framework of E2SHB 1783 on its head. Rather than recognize that failure to pay cannot be punished unless willful, HB 1058 provides no mechanism for an offender to address the reasons for rejecting employment.

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WDA is a non-profit organization created in 1983 to promote, assist, and encourage public defense systems which ensure that all accused persons in every court receive effective assistance of counsel

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WACDL is a non-profit organization working to improve the quality & administration of justice by protecting & insuring by rule of law those individual rights guaranteed by the Washington and Federal Constitutions

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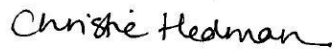
It should also be noted that, if a court defers the minimum restitution payment until after incarceration, DOC will still deducts victim compensation and other LFO payments from the offender's account pursuant to RCW 72.09.111. Thus, if an inmate is working, victims will be compensated immediately, regardless of when the judge mandates minimum payments to begin.

We urge you to veto HB 1058. Mandating minimum LFO payments during periods of incarceration runs counter to the holistic approach of E2SHB 1783. If future modifications are needed to that framework, they should be addressed comprehensively during the 2019 legislative session through similar, well-informed approaches.

Sincerely,



Teresa Mathis  
Executive Director, WACDL



Christie Hedman  
Executive Director, WDA