

**Health Impact Review of Proposed 3SHB 1412 (H-1955.3/22)
Concerning legal financial obligations
(2022 Legislative Session)**

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Full review

The full Health Impact Review report is available at:

<https://sboh.wa.gov/Portals/7/Doc/HealthImpactReviews/HIR-2022-01-HB1412.pdf>

Acknowledgements

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Executive Summary
Proposed 3SHB 1412 (H-1955.3/22), Concerning legal financial obligations
(2022 Legislative Session)

Evidence indicates that Proposed 3SHB 1412 would likely reduce legal financial obligations (LFOs) for some people, which would likely improve health outcomes, reduce reincarceration, and decrease collateral consequences of conviction. It is unclear how the bill would impact equity.

BILL INFORMATION

Sponsors: Representatives Simmons

Summary of Bill:

- Gives the court discretion to waive or reduce certain legal financial obligations (LFOs) if the person lacks the ability to pay.
- Gives the court discretion to limit its jurisdiction* (authority) to collect LFOs if it finds a person does not have the “current or likely future ability to pay.”
- Eliminates currently mandatory Victim Penalty Assessment (VPA) (RCW 7.68.035) and DNA collection fee (RCW 43.43.7541).
- Requires the court, upon motion of the person with LFOs, to eliminate all but one DNA collection fee imposed prior to the bill’s effective date.
- Creates the State Crime Victim and Witness Assistance Account in the State Treasury funded by the state general fund.
- Requires the Legislature to appropriate state general fund dollars for deposit into the State DNA Database Account.
- Adds a definition of LFO to Chapter 3.66 RCW for district and municipal courts.

HEALTH IMPACT REVIEW

Summary of Findings:

This Health Impact Review found the following evidence for relevant provisions in Proposed 3SHB 1412:

- **Informed assumption** that giving the court discretion to waive or reduce certain LFOs if the person lacks the ability to pay and to limit its authority to collect LFOs would result in some judges using this discretion in some circumstances, which would reduce LFOs for some people. This assumption is based on provisions of the bill and information from key informants.
- **Very strong evidence** that reducing LFOs for some people would improve health outcomes.

* Proposed 3SHB 1412 and state statute use the term “jurisdiction” when referring to court authority to collect LFOs. However, key informants representing judges prefer the term authority (personal communications, December 2021). Therefore, this review uses the term jurisdiction when quoting the bill or state statute and uses the term authority when discussing the implications of current law and the proposed policy change.

- **Strong evidence** that reducing LFOs for some people may reduce reincarceration.
- **Very strong evidence** that decreased reincarceration would improve health outcomes.
- **Informed assumption** that reducing LFOs for some people may decrease collateral consequences of conviction for some individuals. This informed assumption is based on a report from the U.S. Commission on Civil Rights and current Washington State laws.
- **Very strong evidence** that reducing collateral consequences of conviction would likely improve access to employment opportunities, housing, and economic stability.
- **Very strong evidence** that improved access to employment opportunities, housing, and economic stability would improve health outcomes.
- **Unclear** evidence for how Proposed 3SHB 1412 would impact inequities due to limited research on how reducing LFOs may impact different groups; the intersectionality of overlapping identities; current inequities due to racism in the criminal legal system; and the allowance for judicial discretion in applying indigency criteria.

Introduction and Methods

A Health Impact Review is an analysis of how a proposed legislative or budgetary change will likely impact health and health disparities in Washington State ([RCW 43.20.285](#)). For the purpose of this review ‘health disparities’ have been defined as differences in disease, death, and other adverse health conditions that exist between populations ([RCW 43.20.270](#)). Differences in health conditions are not intrinsic to a population; rather, inequities are related to social determinants (e.g. access to healthcare, economic stability, racism, etc.). This document provides summaries of the evidence analyzed by State Board of Health staff during the Health Impact Review of Proposed Third Substitute House Bill 1412 ([Proposed 3SHB 1412](#)).

Staff analyzed the content of Proposed 3SHB 1412 and created a logic model depicting possible pathways leading from the provisions of the bill to health outcomes. We consulted with experts and contacted key informants about the provisions and potential impacts of the bill. We conducted an objective review of published literature for each pathway using databases including PubMed, Google Scholar, and University of Washington Libraries. We evaluated evidence using set criteria and determined a strength-of-evidence for each step in the pathway. More information about key informants and detailed methods are available upon request.

Staff also completed key informant interviews to gather additional supporting evidence. In total, we spoke with 27 key informants, including: 9 state agency staff with expertise related to LFOs or the criminal legal system; 7 people representing community organizations that work with people with LFOs; 4 Superior Court and municipal and district court judges; 4 researchers and other subject matter experts; and 3 people representing public defenders and prosecuting attorneys. Some key informants shared that they have lived experience owing LFOs. More information about key informants and detailed methods are available upon request.

The following pages provide a detailed analysis of the bill, including the logic model, summaries of evidence, and annotated references. The logic model is presented both in text and through a flowchart (Figure 1). The logic model includes information on the strength-of-evidence for each pathway. The strength-of-evidence has been established using set criteria and summarized as:

- **Very strong evidence:** There is a very large body of robust, published evidence and some qualitative primary research with all or almost all evidence supporting the association. There is consensus between all data sources and types, indicating that the premise is well accepted by the scientific community.
- **Strong evidence:** There is a large body of published evidence and some qualitative primary research with the majority of evidence supporting the association, though some sources may have less robust study design or execution. There is consensus between data sources and types.
- **A fair amount of evidence:** There is some published evidence and some qualitative primary research with the majority of evidence supporting the association. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.

- **Expert opinion:** There is limited or no published evidence; however, rigorous qualitative primary research is available supporting the association, with an attempt to include viewpoints from multiple types of informants. There is consensus among the majority of informants.
- **Informed assumption:** There is limited or no published evidence; however, some qualitative primary research is available. Rigorous qualitative primary research was not possible due to time or other constraints. There is consensus among the majority of informants.
- **No association:** There is some published evidence and some qualitative primary research with the majority of evidence supporting no association or no relationship. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.
- **Not well researched:** There is limited or no published evidence and limited or no qualitative primary research and the body of evidence has inconsistent or mixed findings, with some supporting the association, some disagreeing, and some finding no connection. There is a lack of consensus between data sources and types.
- **Unclear:** There is a lack of consensus between data sources and types, and the directionality of the association is ambiguous due to potential unintended consequences or other variables.

This review was completed during the interim and was not subject to the 10-day turnaround required in statute. However, this review was subject to time constraints, which influenced the scope of work for this review. The annotated references are only a representation of the evidence and provide examples of current research. In some cases, only a few review articles or meta-analyses are referenced. One article may cite or provide analysis of dozens of other articles. Therefore, the number of references included in the bibliography does not necessarily reflect the strength-of-evidence. In addition, some articles provide evidence for more than one research question, so are referenced multiple times.

Analysis of Proposed 3SHB 1412 and the Scientific Evidence

Summary of relevant background information

- Every state allows for the imposition and enforcement of legal financial obligations (LFOs). LFOs are not governed in federal law or policies, and “LFO laws and policies differ across states and often across counties and municipalities within states.”¹
- In 1989, Washington State enacted statute governing LFOs and allowing courts to order payment of LFOs as part of sentencing.² LFOs may be ordered by a court at original sentencing, at a restitution hearing, or following an appeal.³
- As of December 2021, there were 250 state statutes governing 376 unique LFOs, including 52 unique LFOs in Superior Courts and 299 unique LFOs in courts of limited jurisdiction (i.e., district and municipal courts) in Washington State.¹
- [RCW 9.94A.030\(31\)](#) defines LFOs as “[A] sum of money that is ordered by a [S]uperior [C]ourt of the [S]tate of Washington for [LFOs] which may include restitution to the victim, statutorily imposed crime victims’ compensation fees as assessed pursuant to [RCW 7.68.035](#), court costs, county or interlocal drug funds, court-appointed attorneys’ fees, and costs of defense, fines, and other financial obligation that is assessed to [a person] as a result of a felony conviction.”⁴ While not explicitly defined in statute, district and municipal courts also impose monetary sanctions understood as LFOs.
 - LFOs generally fall into four categories: fines, costs, fees, and restitution.⁵
 - Fines are fixed financial penalties attached to a conviction for a given offense and are a form of punishment.² [RCW 9A.20.021](#) establishes the maximum fine for a class A felony as \$50,000 and the maximum fine for a gross misdemeanor as \$5,000.⁶
 - Costs are fees related to criminal legal system processes and are generally limited to prosecution expenses incurred by the state. Costs can include use of a public defender, court costs such as paperwork and filing fees, probation supervision fees, and incarceration costs, including the cost of being arrested, being supervised before trial, deferring trial, being tried by a jury, avoiding trial, being incarcerated, and, if sentenced to supervision in the community, the costs associated with supervision.^{2,5} Assessments are another form of costs imposed by courts of limited jurisdiction “for services provided whenever the person is referred by the court [...] for evaluation or supervision services.”⁷
 - Fees are “frequently add-on sums allocated to particular entities” (e.g., \$100 fee for DNA collection).⁵ The Washington State Administrative Office of the Courts (AOC) maintains an online list of many of these fees.⁸
 - Restitution “is considered payment of ‘damages’ directly to victims” and must be “ordered in Superior Court whenever there is a conviction for a crime ‘which result[ed] in injury to any person or damage to or loss of property.’”⁵ Washington State law allows restitution to be up to double the amount gained or the victim’s loss.⁹ Courts must impose interest on restitution (12% interest rate),¹⁰ which begins accruing “from the moment the sentence is imposed, even if the [person] is heading to a lengthy prison stay.”^{5,11} Finally, courts are

not allowed to reduce the total amount of restitution imposed based on a person's inability to pay.^{5,9}

- In 2016, the U.S. Department of Justice (DOJ) issued a “Dear Colleague” letter to U.S. judges in which it outlined seven principles relating to the sentencing of fines and fees.¹² Specifically, it “reminded judges that they should not incarcerate people for nonpayment of LFOs before determining whether they have the ability to make payments, that they should consider alternatives to incarceration for nonpayment, and that they must safeguard against unconstitutional practices by all court officials.”¹²
- In 2017, the U.S. Commission on Civil Rights found that “unchecked discretion or stringent requirements to impose fines or fees can lead and have led to discrimination and inequitable access to justice” with data and research evidence that “the impacts of these practices have been borne by communities of color...” and those experiencing financial poverty.¹³
- In 2018, “the American Bar Association adopted ten guidelines on court fines and fees, detailing recommendations for reforms on federal, state, and local levels.”¹²
- Washington State has issued several court rulings related to LFOs:
 - *Washington v. Bower* (1992) determined that “while prosecutors had to prove to courts that [people with LFOs] missed payments, discretion was left to judges to assess whether defendants had presented enough evidence that they were too impoverished to make minimum monthly payments”²
 - *Washington v. Nason* (2010) determined that “jailing for nonpayment is permissible when the court determines that a [person] has willfully refused to pay.”²
 - *State of Washington v. Blazina* (2015) “held that trial courts are obligated to conduct inquiries into [a person’s] ability to pay before assessing monetary sanctions” and should include “important factors such as indigent status and other impending legal debts.”¹²
 - *State of Washington v. Ramirez* (2018) “suggest[ed] that individualized inquiries about indigence, other outstanding legal debt, and other financial circumstances, such as employment history, assets, and living expenses, need to be addressed to alleviate the burden of legal debt on economically disadvantaged [people].”¹²
- In 2016, Washington State was one of five states awarded a “Price of Justice Grant” by DOJ’s Office of Justice Program’s Bureau of Justice Administration.¹² States were selected to study their practices around LFOs. Using this grant, the Washington State Supreme Court Minority and Justice Commission worked with volunteers to create an LFO calculator to help judicial officers “calculate LFOs and to understand when [LFOs] must, can, or cannot be imposed”⁵ according to statute. Judges’ use of the LFO tool is voluntary.¹⁴ A coming report from the Minority and Justice Commission found, “[j]udges who use the LFO Calculator on a consistent basis reported that their ability to pay inquiry became more formal and more consistent than it had been prior to the calculator.”¹⁵
- In 2018, the Washington State Legislature passed Engrossed Second Substitute House Bill 1783 ([Chapter 269, Laws of 2018](#)) significantly modifying laws governing LFOs. The new law expanded the number and kinds of LFOs that could be waived if a person was determined to be indigent; prioritized LFO repayment such that funds collected be directed to restitution for victims first; and eliminated the accrual of state-imposed interest on

outstanding fines and fees for convictions, excluding restitution.¹⁶ However, “[t]he removal of interest did not include interest that accrued on convictions prior to June 6, 2018.”¹² Therefore, the removal of interest is not retroactive.¹² Instead, the “new statute includes a pathway for people to apply to have their nonrestitution interest waived or reduced via judge-approved petition.”¹²

- “In February 2021, the Washington State Supreme Court ruled in *State v. Blake* that the state’s felony drug possession statute was unconstitutional.”¹⁷ Based on the decision, anyone previously convicted under RCW 69.50.4013 for simple possession of a controlled substance may have these convictions vacated, dismissed, etc., by an order from the court, including “people who are currently incarcerated, on community custody/probation, in the community with a conviction on their record, or charged where the case is not yet resolved.”¹⁷ People whose convictions have been vacated “will no longer have a recorded conviction and will be eligible for refunds of [LFOs] paid”.¹⁷
 - The Administrative Office of the Courts (AOC) has entered into reimbursable contracts with 37 of 39 counties to-date, in order to efficiently distribute \$68 million in Blake-related funding (personal communication, AOC, January 2022). So far, more than \$500,000 in reimbursement requests have been processed, with weekly totals growing as counties continue to implement (personal communication, AOC, January 2022). Data quality issues present the greatest challenge to this effort, making it extremely difficult for AOC staff to estimate how many cases and how many LFO payments need to be refunded (personal communication, AOC, January 2022). AOC continues to work with partners in prosecutors’ and clerks’ offices around the state to mitigate this challenge, but progress is slow because of staffing challenges due to a lack of funded staff and the inability to attract recruits due to the sparse labor market (personal communication, AOC, January 2022).
- In 2021, the Washington State Legislature allocated funding in the 2021-2023 operating budget for the Washington State Institute for Public Policy (WSIPP) to conduct a study of LFOs as defined in RCW 9.94A.030.¹⁸ The budget proviso directed the study to recommend to the Legislature “potential methods and processes to delink court-related funding and other county and local funding from the collection of [LFOs] and to provide such funding through other means.”¹⁸ An initial report, “*Legal Financial Obligations in Washington State: Background, Statutes, and 50-State Review*” was submitted to the Legislature in December 2021.¹ The final report is due by December 1, 2022.¹⁸
- As a result of the 2019 Novel Coronavirus (COVID-19) pandemic, the criminal legal system has experienced a backlog of court cases (personal communication, January 2022).

Summary of Proposed 3SHB 1412

- Gives the court discretion to waive or reduce certain LFOs if the defendant lacks the ability to pay.
 - Revises indigency criteria for specific provisions to include people who:
 - Meet the existing definition of indigent in RCW 10.101.010(3)(a-c);
 - Are experiencing homelessness or are mentally ill as defined in RCW 71.24.025;

- Have a household income greater than 125% of the Federal Poverty Level (FPL) and have basic living costs that render them without the ability to pay LFOs; or
 - Have other “compelling” circumstances that demonstrate an inability to pay.
- Gives the court discretion to waive or reduce restitution and accrued interest on restitution, including at sentencing, where the entity to whom restitution is owed is an insurer (as defined and authorized under title 48 RCW) or a state agency (RCW 42.56.010[1]) and if the person with LFOs “does not have the current or likely future ability to make full or partial restitution.”
 - For the purposes of this section, “insurer” does not include an individual or joint self-insurance program and “self-insurance” means a formal program of advance funding and management of entity financial exposure to risk of loss that is not transferred through the purchase of an insurance policy or contract.
- Gives the court discretion to not impose interest on any restitution the court orders. The court shall consider:
 - Whether the person is indigent (RCW 10.101.010[3] or general rule 34);
 - The person’s available funds (RCW 10.101.010[2]) and other liabilities (e.g., child support and other LFOs);
 - Whether the person is homeless;
 - Whether the person is mentally ill (RCW 71.24.025); and
 - The victim’s input, if any, as it relates to any financial hardship they may experience if interest is not imposed.
- Gives the court discretion, upon motion of the person with LFOs, to waive or reduce any previously imposed criminal filing fee if the court finds the defendant is indigent as defined in RCW 10.01.160(3).
- Allows a Superior Court, upon motion of the person with LFOs, to reduce or waive any Victim Penalty Assessment (VPA) imposed prior to the effective date of Section 13 of the bill if the court finds the person is indigent as defined in RCW 10.01.160(3) and “does not have the current or likely future ability to pay.”
 - Strikes the following requirements from current statutes:
 - the VPA cannot be reduced, waived, or converted to community restitution (RCWs 9.94A.6333[3][f], 9.94B.040[4][f], 10.01.180[5], and 13.40.200[4]);
 - indigency “is not grounds for failing to impose the [VPA]” (RCW 9.94A.760[1]);
 - payment of the VPA be required as a condition for suspension of a sentence (RCW 9.92.060[2]) or probation (RCW 9.95.210[2]); and
 - the responsibility of county prosecuting attorneys to make every reasonable effort to see that VPAs are imposed and collected (RCW 7.68.035[6]).
- Allows a person with LFOs who has not willfully failed to pay them to petition the court at any time for remission of any unpaid costs.

- Strikes the requirement that a person be released from total confinement before petitioning the court for remission.
- Allows the court discretion to limit its jurisdiction[†] (authority) to collect LFOs if it finds a person does not have the “current or likely future ability to pay.”
 - Strikes language differentiating between offenses committed prior to July 1, 2000 and those committed on or after July 1, 2000.
 - Strikes the requirement that the Superior Court retain jurisdiction over a person until they have paid all their outstanding LFOs.
 - Strikes the “has not made a good faith attempt to pay” standard for extending district court jurisdiction an additional 10 years for purposes of collecting restitution LFOs.
 - Establishes that the court may only extend its jurisdiction to collect LFOs if it determines the person has “the current or likely future ability to pay.”
 - Establishes that a person does not have the current ability to pay if they meet revised indigency criteria outlined in RCW 10.01.160(3).
 - Limits the Superior Court clerk’s, or its designee’s, authority to seek an extension for an additional 10 years for purposes of LFO collection.
- Eliminates currently mandatory VPA (RCW 7.68.035) and DNA collection fee (RCW 43.43.7541).
- Requires the court, upon motion of the person with LFOs, to eliminate all but one DNA collection fee imposed prior to the bill’s effective date.
- Creates the State Crime Victim and Witness Assistance Account in the State Treasury funded by the state general fund.
- Requires the Legislature to appropriate state general fund dollars for deposit into the State DNA Database Account.
- Adds a definition of LFO to Chapter 3.66 RCW for district and municipal courts.

Health impact of Proposed 3SHB 1412

Evidence indicates that Proposed 3SHB 1412 would likely reduce legal financial obligations (LFOs) for some people, which would likely improve health outcomes, reduce reincarceration, and decrease collateral consequences of conviction. It is unclear how the bill would impact equity.

Pathway to health impacts

The potential pathways leading from the provisions of Proposed 3SHB 1412 to decreased health inequities are depicted in Figure 1. Based on provisions of the bill, we have made the informed assumption that giving the court discretion to waive or reduce certain legal financial obligations (LFOs) if the person lacks the ability to pay and to limit its authority to collect LFOs would result in some judges using this discretion in some circumstances, which would reduce LFOs for some people. This assumption is based on provisions of the bill and information shared by key informants. There is very strong evidence that reducing the financial impact of and debt from

[†] Proposed 3SHB 1412 and state statute use the term “jurisdiction” when referring to court authority to collect LFOs. However, key informants representing judges prefer the term authority (personal communications, December 2021). Therefore, this review uses the term jurisdiction when quoting the bill or state statute and uses the term authority when discussing the implications of current law and the proposed policy change.

LFOs will lead to improved health outcomes.¹⁹⁻³¹ There is strong evidence that reducing LFOs for some people may reduce reincarceration,^{28,32,33} which may also improve health outcomes.³⁴⁻⁴⁵

We have also made the informed assumption that reducing LFOs for some people may decrease collateral consequences of conviction for some individuals. This informed assumption is based on a report from the U.S. Commission on Civil Rights and current Washington State laws. There is very strong evidence that reducing collateral consequences of conviction would likely improve access to employment opportunities,^{5,46,47} housing,^{5,14,46,48} and economic stability.^{5,29,46,49-54} There is very strong evidence that improved access to employment opportunities, housing, and economic stability will likely result in improved health outcomes.⁵⁵⁻⁵⁷

Lastly, due to limited research on how reducing LFOs may impact different groups; the intersectionality of overlapping identities; current inequities due to racism in the criminal legal system; and the potential for the use of discretion in applying indigence criteria to vary by court and judge, it is unclear how reducing LFOs for some people may impact equity for people with LFOs.

Scope

Due to time limitations, we only researched the most direct connections between provisions of the bill and health inequities and did not explore the evidence for all possible pathways. For example, we did not evaluate potential impacts related to:

- The State Crime Victim and Witness Assistance Account. Currently, [RCW 7.68.035](#) specifies that fines collected from the mandatory VPA be used “exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes.”⁵⁸ Proposed 3SHB 1412 eliminates the mandatory VPA, amends RCW 7.68.035, creates the State Crime Victim and Witness Assistance Account (the account), and requires the state treasurer to transfer \$3.9 million annually into the account. The bill maintains that funds transferred to the account continue to be used as specified in current state statute. Key informants shared that approximately \$3.3-\$3.9 million in VPA fines are currently collected and allocated to support victim and witness programs and that the amount specified in Proposed 3SHB 1412 aligns with this amount (personal communication, January 2022). However, it is unclear how the funding schedule outlined in the bill may align with victim needs in the long-term (personal communication, January 2022). For example, the current backlog of court cases due to the COVID-19 pandemic may result in an influx of cases and may impact the amount of funding needed to provide victim services (personal communication, January 2022).
- Potential impacts to victims of crime. Key informants noted that some provisions of the bill may impact victims of crime, though it is not possible to predict the number of victims that may be impacted or the extent to which victims of crime may be impacted (personal communication, January 2022). For example, the expanded definition of indigency may reduce LFOs for some people, which in turn could impact the number of victims receiving restitution and interest on restitution (personal communication, January 2022). People with LFOs may also be victims of crime and could be impacted by the reduction of LFOs in multiple ways. Additionally, key informants stated that victims may

be required to appear in court if a person with LFOs (including people who are currently incarcerated) petition the court to reduce LFOs, which could be potentially traumatic for victims (personal communication, January 2022).

- The State DNA Database Account, which is used for the operation and maintenance of the database and for distribution to agencies responsible for the collection of biological samples. Proposed 3SHB 1412 requires the Legislature appropriate \$600,000 annually, or as much thereof as may be necessary, from the state general fund into the account managed by Washington State Patrol. It is unclear how provisions of the bill would impact the amount deposited into the State DNA Database Account and whether this would have additional impacts.
- The potential impact of proposed changes on court, county, and municipality revenue. Approximately 72% of Washington State's court system is supported through local funding.¹ LFOs collected in Washington State provide a source of revenue to Superior Courts and courts of limited jurisdiction, with approximately 26% of judicial spending coming from fines and forfeitures.¹ For example, a 2018 sample of 100 municipalities found that \$90 million of revenue was collected by counties through fines and fees.⁵⁹ Approximately, 66% was collected from court-related fines, fees, and forfeitures; 22% was collected from fees paid by people in county jails; and the remaining approximately 12% was collected from restitution or people under surveillance and monitoring programs.⁵⁹ How much and from what source municipalities collected funds varied.⁵⁹ In their 2021 report examining LFO structure and funding in the state, WSIPP further explained that:

Various [state] statutes allowing for the imposition of LFOs...have different formulas for how much money is retained locally and how much is sent to the state. Some of the collected revenue is earmarked for specific uses...Any funds not earmarked for a specific use go to either municipal or state general funds. While the amount of LFOs collected is small compared to the amount imposed [about 5.4%], LFO revenue accounts for a meaningful amount of some court and municipality budgets. That is, without access to LFO revenue it may be financially difficult for some courts to continue operations at or around their current level.¹

A more detailed breakdown of how LFO funding is used and how LFO revenue impacts court funding in Washington State will be available in WSIPP's final report due to the Legislature in December 2022. Based on their analysis of a previous version of the bill, WSIPP concluded that provisions would likely result in a loss of revenue for courts, counties, and municipalities.¹ However, it is unclear how provisions outlined in Proposed 3SHB 1412 may affect revenue for courts and jurisdictions and how this may impact court programming and operations.

- The potential impacts of changing the start of interest accrual on restitution from the date of judgement to the date of judgment or the date of release from total confinement, whichever is later.
- The potential impact on families and communities of people with LFOs. Key informants stated that outstanding LFOs often affect a person's family and broader community

(personal communications, November-December 2021). LFOs may create barriers to a person’s ability to build attachments, make commitments, and establish traditional relationships.² Financial and emotional strain of carrying LFOs can create stress for families.^{2,60} For example, research shows that a child’s economic well-being is linked to their father’s potential earnings and employment after incarceration and indicates that fathers who were formerly incarcerated are less likely to contribute to a family’s finances.⁶¹ Collateral consequences of conviction (e.g., barriers to employment) may also require people with LFOs to depend on family and friends for financial support^{2,60} and may negatively affect family and dependent children. For example, “the threat of being returned to jail [for] non-payment is likely to cause enormous turmoil for those with dependent children – more so, where children lack other caregivers.”⁵

In its 2021 report, the Washington State Supreme Court Gender and Justice Commission noted that while “the body of evidence exploring who pays LFOs is still developing,” a larger body of research finds that women are disproportionately likely to pay criminal legal system costs (e.g., bail, visitation).⁵ Currently available evidence indicates that women are paying LFO costs for others at a disproportionate rate, that nearly half of the women paying court-related costs are mothers, and “the burden of other people’s court debt falls most heavily on middle-aged African-American women.”⁵ The report also cited evidence that mothers assisting “with incarceration fees often face a difficult choice, [as] 65% of families reported ‘difficulty meeting basic needs as the result of a loved one’s incarceration.’”⁵

Key informants in Washington also shared that any money sent by family and friends to loved ones who are in prison (e.g., to purchase commissary goods) is subject to deduction if they have outstanding LFOs (personal communications, November-December 2021). [RCW 72.09.480](#) specifies the percentage of funds to be withheld by the Department of Corrections (DOC) for various priorities (e.g., crime victims’ compensation account, child support, cost of incarceration) including a 20% deduction for payment of LFOs owed in any Washington State Superior Court.⁶² In all cases, deductions from deposits won’t take a person’s account below the indigent standard of \$25.00 (personal communication, DOC, January 2022). However, based on deductions detailed in RCW 72.09.480 (up to 95%), RCW 72.09450 (20%), and federally required deductions related to the any Prison Litigation Reform Act obligation an individual may have (20%), an person’s deduction percentages may be higher than 100% (personal communication, DOC, January 2022).

Magnitude of impact

Provisions of Proposed 3SHB 1412 would apply to both Superior Courts and courts of limited jurisdiction in Washington State. Since “everyone convicted of a crime [in Washington State] receives an LFO unless they meet specific criteria”¹, provisions of the bill have the potential to impact all people who currently have LFOs as well as people who are convicted of crimes in the future in Washington State.

Between 2014 and 2016, the most recent state-level data available, approximately \$220 million total in LFOs were imposed in Superior Courts (\$131 million) and courts of limited jurisdiction (\$88.8 million) in Washington State.⁶³ Approximately 5.5% (\$12 million) of LFOs that were imposed had been collected over the same time period;¹ including \$7.7 million in LFOs collected from Superior Courts and \$4.6 million in LFOs collected from courts of limited jurisdiction.⁶³ Of LFOs that had not been collected, there is no state-level data to determine what percentage of LFOs is outstanding and what percentage has been sent to collections (personal communication, Administrative Office of the Courts [AOC], December 2021).

State-level data on LFOs is incomplete and does not reflect the true debt burden for individuals (personal communication, November 2021). While AOC collects data for most court systems in the state, Washington State has a non-unified court system, meaning that “courts do not operate under a standard set of rules or procedures. Instead, local jurisdictions (e.g., counties and municipalities) are responsible for operating their courts.”¹ As a result, information and data are not consistently collected or reported by each court system (personal communication, AOC, July 2020). For example, the Seattle Municipal Court and some branches of the King County District Court do not provide information to AOC.¹ Additionally, in 2018, AOC and most state courts transitioned to a new data system, making it difficult to track data over time.¹ While AOC collects some data about LFOs, the data only reflect the total amount of LFOs imposed at sentencing and any adjustments but do not include interest, collections fees, etc. Data are also not available by person or by case (personal communication, AOC, December 2021).

Therefore, while Proposed 3SHB 1412 has the potential to impact all people who currently have LFOs as well as people who are convicted of crimes in the future, currently available data do not allow for the estimation of how many people may be impacted or to what degree LFOs may be reduced as a result of Proposed 3SHB 1412.

Logic Model

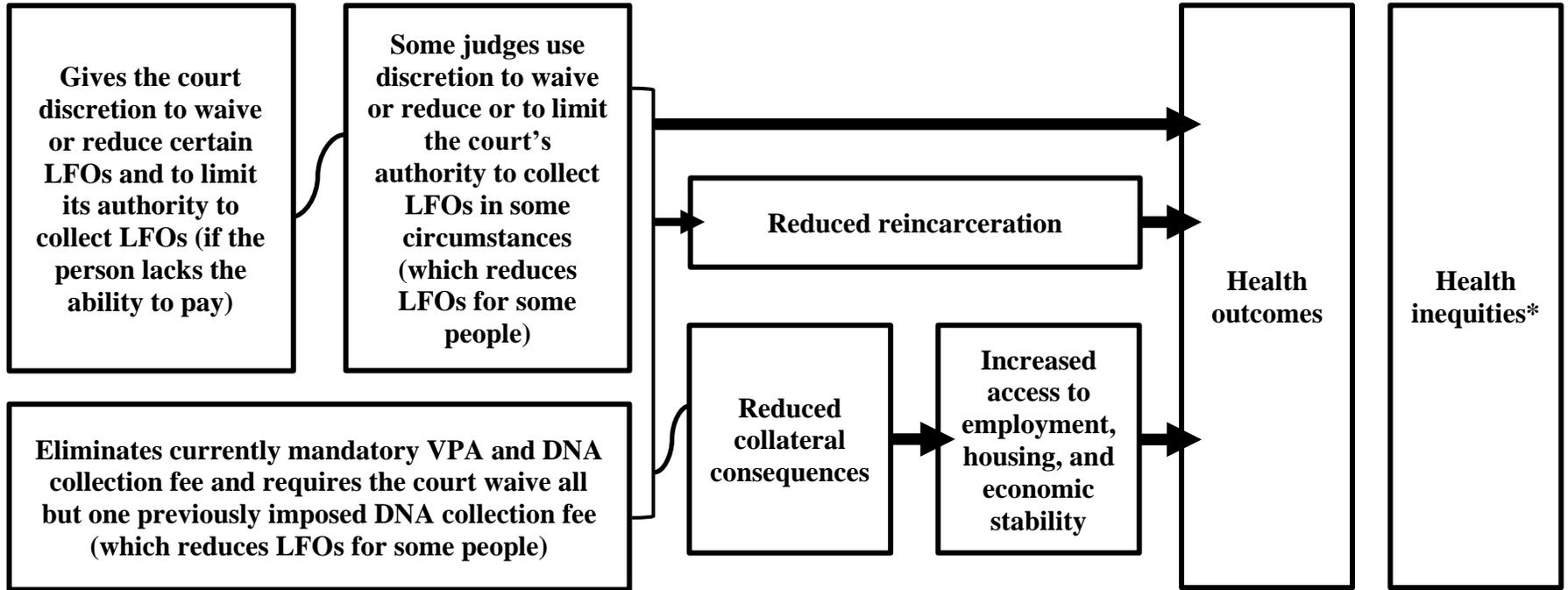
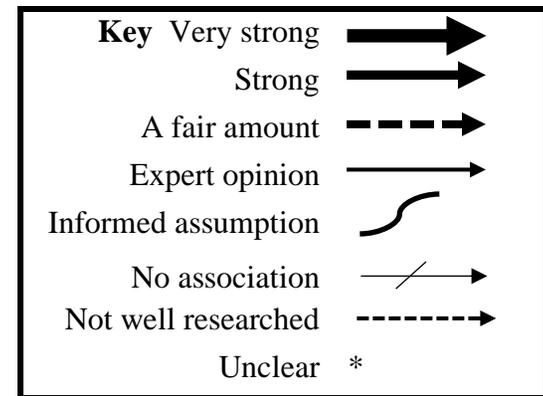


Figure 1:
Concerning legal financial obligations
Proposed 3SHB 1412



Summaries of Findings

Would giving the court discretion to waive or reduce certain LFOs if the person lacks the ability to pay and to limit its authority to collect LFOs result in some judges using this discretion in some circumstances (which would reduce LFOs for some people)?

We have made the informed assumption that giving the court discretion to waive or reduce certain legal financial obligations (LFOs) if the person lacks the ability to pay and to limit its authority to collect LFOs would result in some judges using this discretion in some circumstances, which would reduce LFOs for some people. This informed assumption is based on provisions of the bill; information shared by key informants representing the Washington State Superior Court Judges' Association (SCJA), District & Municipal Court Judges' Association (DMCJA), and Washington State Department of Corrections (DOC); and Seattle Municipal Court data.

LFOs are debts related to criminal convictions. A court may order the payment of LFOs at sentencing, at a restitution hearing, or following an appeal.³ LFOs generally fall into four categories: fines, costs, fees, and restitution.⁵ Under current Washington State law, some LFOs are mandatory while others are discretionary. Courts must impose mandatory LFOs as part of a conviction for certain offenses, regardless of a person's ability to pay.⁶⁴ These mandatory LFOs cannot be waived using judicial discretion. Under current statute, a court must impose the Victim Penalty Assessment (VPA) (i.e., in Superior Court), DNA collection fee, and crime-specific mandatory LFOs such as criminal filing fees and victim restitution.^{5,64} For example, Superior Courts are required by [RCW 7.68.035\(1\)\(a\)](#) to impose a \$500 VPA for every felony or gross misdemeanor and a \$250 VPA for each misdemeanor.⁵⁸ Additionally, [RCW 43.43.7541](#) requires the collection of DNA from people convicted of certain crimes or categories of crimes outlined in [RCW 43.43.754](#) and imposes a \$100 DNA database fee.⁶⁵ Following a statute change in 2018, the DNA collection fee is no longer mandatory if the DNA of the person convicted of a crime was previously collected as a result of a prior conviction.^{16,65} [RCW 36.18.020\(2\)\(h\)](#) requires collection of a criminal filing fee of \$200 in a criminal case, unless the person who is accused of a crime is found indigent per the indigency standard (RCW 10.101.010[3][a-c]).⁶⁶ Courts are also required to order restitution where there is injury to a person or damage to a property, and the amount is determined at sentencing or within 180 days of sentencing.³ Additionally, statute requires interest be imposed on restitution LFOs (at 12% interest rate), which begins accruing as soon as it is imposed.¹¹ Unlike other costs, "a court cannot reduce the total amount of restitution imposed based on an individual's ability to pay."^{5,9}

Many other LFOs are discretionary and can be waived or reduced according to statute by the sentencing court (i.e., superior, district, or municipal courts). Discretionary costs are expenses incurred by the state during prosecution or pretrial supervision.⁶⁴ For example, courts may require a person who is accused of a crime to pay costs related to defense, including costs of preparing and serving a warrant, witness fees, cost of preparing and securing a warrant for failure to appear, cost of administering pre-trial supervision, and cost of deferred prosecution.⁶⁷

Gives the court discretion to waive or reduce certain LFOs if the person lacks the ability to pay
Currently, judges use discretion, as allowed by statute, to impose and sanction LFOs. Judges determine the sentence, which in turn determines the mandatory LFOs and any discretionary

LFOs. Judges apply the indigency standard, as defined in [RCW 10.101.010\(3\)\(a-c\)](#), to determine a person's ability to pay LFOs. Indigent is defined as "a person who, at any state of a court proceeding is: (a) Receiving one of the following types of public assistance: Temporary assistance for needy families [TANF], aged, blind, or disabled assistance benefits, medical care services under [RCW 74.09.035](#), pregnant women assistance benefits, poverty-related [V]eterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, Medicaid, or supplemental security income [SSI]; or (b) Involuntarily committed to a public mental health facility; or (c) Receiving an annual income, after taxes, of [125%] or less of the current federally established poverty level [FPL]."⁶⁷ According to this standard, some Washington statutes require courts to waive or reduce certain LFOs if a person meets the definition of indigent. For example, jury fees may not be imposed on an individual found to be indigent at the time of sentencing.⁶⁸

If passed, Proposed 3SHB 1412 would create multiple opportunities for the court to waive or reduce certain LFOs if the person lacks the ability to pay. It would: 1) revise indigency criteria by which judges may waive or reduce LFOs; 2) give the court discretion to waive or reduce restitution and accrued interest on restitution where the entity to whom restitution is owed is an insurer or is a state agency; 3) give the court discretion to not impose interest on restitution and expand opportunities to seek LFO relief from interest on non-restitution and discretionary costs; 4) allow any previously imposed criminal filing fee(s) to be waived or reduced; 5) allow any previously imposed VPA(s) to be waived or reduced; 6) eliminate payment of the VPA as a condition to suspension of a sentence or probation; and 7) remove prosecuting attorneys' responsibility to see that VPAs are imposed and collected.

First, Proposed 3SHB 1412 would revise indigency criteria for specific provisions. The bill would amend [RCW 10.01.160\(3\)](#) to define a person who is accused of a crime as "indigent" if they meet one of four criteria. The proposed language maintains the existing standard defined in RCW 10.101.010(3)(a-c) and would expand the standard to include people who: 1) are experiencing homelessness or are mentally ill as defined in [RCW 71.24.025](#); 2) have a household income greater than 125% of the FPL and basic living costs (e.g., shelter, food, utilities, healthcare, transportation, clothing, loan payments, support payments, and court-imposed obligations) that render them without the ability to pay LFOs; or 3) have other "compelling" circumstances that demonstrate an inability to pay. A court would have the discretion to consider a person's financial resources and the potential burden of LFOs. Currently, the court does not have the authority to use discretion in instances where a person does not meet the current indigence standard. Amending indigency criteria would allow more people, both who have returned to community and who are currently incarcerated, to have the court consider their circumstances and ability to pay LFOs.⁶⁸ Criteria could also impact when a court determines a person has "willfully" not paid their LFOs (RCW 10.01.180) and is subject to penalties.⁶⁹

The bill would also amend RCWs 3.66.120(2), 9.94A.750(3)(b), 9.94A.753(3)(b), 9.92.060(3), and 9.95.210(4) to allow the court to reduce or waive restitution and accrued interest on restitution, including at sentencing, where the entity to whom restitution is owed is an insurer (as defined and authorized under title 48 RCW) or is a state agency (RCW 42.56.010[1]). For the purposes of these sections, "insurer" does not include an individual or joint self-insurance program and "self-insurance" means a formal program of advance funding and management of

entity financial exposure to risk of loss that is not transferred through the purchase of an insurance policy or contract. Specifically, the court would be allowed to waive or reduce restitution-related LFOs owed to an insurer or a state agency if the person who owes restitution “does not have the current or likely future ability to make full or partial restitution.”

The bill would also add language to [RCW 10.82.090](#) allowing the court to not impose interest on any restitution the court orders. The new language states the court shall consider: a) whether the person is indigent; b) their available funds and other liabilities, including child support and other LFOs; c) whether the person is experiencing homelessness; and d) whether the person is mentally ill. The new provision would also require the court to consider the victim’s input, if any, as it relates to any financial hardship they may experience if interest is not imposed and paid to them. The court may also consider any other information it believes relates to not imposing interest on restitution. Additionally, the bill would strike language from RCW 10.82.090(3) requiring a person be released from total confinement before petitioning the court to reduce or waive the interest on LFOs resulting from a criminal conviction. This change would expand “opportunities to seek relief from interest on non-restitution and discretionary costs to people who are currently incarcerated on the conviction for which the LFOs were imposed” (personal communication, Columbia Legal Services, January 2022).

The proposed bill would amend and reenact RCW 36.18.020 to allow the court, upon motion of a person with LFOs, discretion to waive or reduce any previously imposed criminal filing fee(s) if the court finds the individual is indigent as defined in RCW 10.01.106(3). This would allow people who were assessed the \$200 fee when it was mandatory (prior to the implementation of E2SHB 1783) to have the court consider their ability to pay.

Specific to Superior Courts, the bill would amend RCW 7.68.035 to allow the court, upon motion by a person with LFOs, to waive or reduce any previously imposed VPA if the court finds they are indigent as defined in RCW 10.01.160(3) and does not have the “current or likely future ability to pay.” It strikes language prohibiting the VPA from being reduced, waived, or converted to community restitution from RCWs 9.94A.6333(3)(f), 9.94B.040(3)(f), 10.01.180(5), and 13.40.200(4). It also removes language from RCW 9.94A.760(1) that indigency “is not grounds for failing to impose the [VPA].”⁷⁰ Similarly, it eliminates payment of the VPA as a condition for suspension of a sentence (RCW 9.92.060[2]) or probation (RCW 9.95.210[2]). Finally, it strikes language in RCW 7.68.035(6) requiring county prosecuting attorneys be responsible for making every reasonable effort to see VPAs are imposed and collected.

Overall, these revisions expand the standards and instances in which the court may consider waiving, reducing, or not imposing certain LFOs.

Key informants working with people with LFOs stated there is some evidence that judges will use discretion to reduce LFOs (personal communications, November-December 2021). For example, a key informant working with people with LFOs who are currently or were formerly incarcerated shared that among Superior Court “judgments and sentences issued pre-2015, nearly 99% have at least one LFO ordered by the court” (personal communication, Washington State Department of Corrections [DOC], November 2021). In 2018, the Washington State Legislature

passed E2SHB 1783 (Chapter 269, Laws of 2018), which provides that a court may not impose costs on a person who is indigent at the time of sentencing.¹⁶ Since implementation of the new law, DOC staff have seen evidence that at least some Superior Courts are not imposing LFOs at sentencing for those determined to be indigent (personal communication, DOC, November 2021).

Data from Seattle Municipal Court (SMC) serve as an example of current court discretion for non-mandatory LFOs and demonstrate how discretion can affect someone's total LFOs. In courts of limited jurisdiction, judges are required to ask about and consider a person's ability to pay costs, including consideration of a person's income, employment history, monthly expenses, other assets or financial resources, and other debts.⁷¹ In 2017, SMC ordered \$5.5 million in LFOs for criminal non-traffic offenses.⁷¹ The court subsequently adjusted the total amount owed to approximately \$360,000 (a roughly 93% reduction).⁷¹ The court also adjusted restitution owed for non-traffic criminal offenses, from an average of \$170 to \$130.⁷¹ Although researchers did not conduct follow-up interviews to determine the exact reason for the adjustment, data indicate that discretion was used to decrease the initial LFO amounts in these courts (personal communication, Dr. Alexes Harris, University of Washington, December 2021).

Surveys conducted by the Washington Supreme Court Minority and Justice Commission with judicial officers, prosecutors, defense attorneys, and civil and legal aid attorneys in the state found inconsistent evidence regarding whether judges currently inquire into a person's "ability to pay" before imposing LFOs.¹⁵ When asked whether they consider a person's ability to pay when setting costs and fees and when setting fines, 98% of judicial officers surveyed responded 'yes' to both questions.¹⁵ Among prosecutors surveyed, 78% answered 'yes' there is an inquiry on the record into ability to pay.¹⁵ Among defense attorneys and civil and legal aid attorneys surveyed, 59% reported that judges in the courts where they practiced conducted an adequate inquiry into their clients' ability to pay costs as is legally required.¹⁵ However, just 21% reported "judges use the indigence standards in RCW 10.101.010 and General Rule 34 as required by HB 1783".¹⁵ Additionally, when asked why courts impose LFOs, judicial officials' most commonly reported reasons were 1) cost recovery or to fund the criminal legal system, 2) "because the Legislature says so", and 3) punishment.¹⁴ Based on this information, some people with LFOs "were not optimistic about impacted persons' chances of having the ability-to-pay inquiry result in imposition of reduced LFOs [under current statutes], or that it would be applied consistently across the state..." This conclusion was also informed by their "own lived experience with different judges using their discretion differently, and otherwise inconsistent application of the law."¹⁴

Allows the court to limit its authority to collect LFOs in certain circumstances

[RCW 9.94A.760\(5\)](#) requires that, for any Superior Court conviction for an offense committed on or after July 1, 2000, "the court shall retain jurisdiction over the [person who is convicted of a crime], for purposes of [their] compliance with payment of the [LFOs], until the obligation is completely satisfied, regardless of the statutory maximum for the crime."⁷⁰ Therefore, until the person has paid all of their outstanding LFOs, they remain under the court's authority, which means "a county clerk is authorized to continue to try to verify income and collect."⁷⁵ Failure to make an LFO payment has legal repercussions and "courts can set 'show cause' hearings where people must explain why 'they should not be punished for noncompliance.' If a court determines

someone has the means to pay but has not” or “if an individual fails to appear for a show cause hearing”, the judge may order additional penalties.¹

Additionally, under current law, district sentencing courts have the authority in some circumstances to extend the timeframe in which certain LFOs can be enforced. For example, [RCW 3.66.120\(3\)](#) establishes that all court-ordered restitution may be enforced within a 10-year period either following the release of a person with LFOs from total confinement or from the point of sentencing, whichever is longer.⁷² However, the statute also allows the court to extend the criminal judgment an additional 10 years for collection purposes if the court finds “that the [person with LFOs] has not made a good faith attempt to pay.”⁷² Additionally, [RCW 6.17.020](#) allows the clerk of the Superior Court, or a designee, to seek an extension of a judgment for an additional 10 years for collections purposes, provided that no filing fee shall be required.⁷³

If passed, Proposed 3SHB 1412 would strike language in RCW 9.94A.760(5) differentiating between offenses committed prior to July 1, 2000 and those committed on or after July 1, 2000. The bill would also strike the requirement that the Superior Court retain authority over a person until they have paid all their outstanding LFOs. It would reduce the time period of LFO enforcement to any time during the 10-year period following a person’s release to community from incarceration or within 10-years of the judgement or sentencing, whichever is later. Moreover, new language would only allow the court to extend the period of LFO enforcement if it determined the person had “the current or likely future ability to pay.” Finally, it establishes that a person does not have the current ability to pay if they meet the revised indigency criteria outlined in RCW 10.01.160(3). The bill would similarly amend RCW 6.17.020(4) to reflect “the current or likely future ability to pay” and revised indigency criteria. This would limit the Superior Court clerk’s, or its designee’s, authority to seek an extension for an addition 10 years for purposes of LFO collection. Further discussion of the potential impacts of LFOs in collections is presented in Other Considerations.

Similarly, Proposed 3SHB 1412 would strike the “has not made a good faith attempt to pay” standard for extending court jurisdiction an additional 10 years for purposes of collecting restitution LFOs from RCW 3.66.120(3). Instead, the bill would allow district courts to extend the judgment to pay court-ordered restitution only if the person has the “current or likely future ability to pay.” Any person deemed indigent (RCW 10.01.160[3]) does not have the current ability to pay.

Overall, based on provisions of the bill and information shared by key informants, we have made the informed assumption that giving the court discretion to waive or reduce certain LFOs if a person lacks the ability to pay and to limit its authority to collect LFOs would result in some judges using this discretion in some circumstances, which would reduce LFOs for some people. Since this reduction of LFOs is based on judicial discretion, it is not possible to determine in what cases judges may apply discretion or to what degree LFOs may be reduced. However, all key informants stated that Proposed 3SHB 1412 would likely result in LFOs being reduced by some amount for some people.

Would reducing LFOs for some people improve health outcomes?

There is very strong evidence that reducing the financial impact of and debt from LFOs will lead to improved health outcomes. Financial impact can be measured by a number of indicators including household income, socioeconomic position, relative deprivation, poverty rates, and personal indebtedness.^{20,21,24,25,30,31,74}

The bill provides two mechanisms to reduce LFOs for some people. First, it would allow expanded opportunities for judges to use discretion to reduce certain LFOs. Secondly, it would eliminate future imposition of two currently mandatory LFOs—the VPA and DNA collection fee. Following the effective date, the bill would strike the requirement that Superior Courts impose a mandatory VPA for each case or cause of action that includes one or more convictions (\$250 for misdemeanors and \$500 for felonies or gross misdemeanors). It would also eliminate the \$100 DNA collection fee. Moreover, it would require the court, upon motion of the person with LFOs, to waive all but one instance of previously imposed DNA collection fees. While available data do not allow us to determine the degree to which these changes would reduce current or future LFOs, the provisions would likely reduce LFOs for some people.

There is a large body of robust evidence that supports the association between income and health. Significant correlations exist between lower income and multiple health indicators including worse overall self-reported health, depression, stress, asthma, arthritis, stroke, oral health, tobacco use, women’s health indicators, health screening rates, physical activity, and diabetes.¹⁹⁻²⁵ Further, 2015 data indicate that age-adjusted death rates were higher in Washington State census tracts with higher financial poverty rates.²⁶ Household income was the strongest predictor of self-reported health status in Washington in 2016, even after accounting for age, education, and race/ethnicity.²⁷

In addition, another body of evidence indicates an association between debt, or indebtedness, and health. Evidence from two systematic reviews showed that unpaid debt is associated with poorer self-reported physical health and health-related behaviors such as physical activity, alcohol and tobacco use, and diet quality.^{30,31} Evidence shows that personal debt negatively impacts mental health and is associated with an increased rate of depression and depression-related symptoms such as anxiety and anger as well as suicidal ideation.^{30,31} The results from a pooled meta-analysis demonstrate significant associations between debt and mental disorders, depression, suicide completion or attempt, problem drinking, drug dependence, neurotic disorder, and psychotic disorders.³⁰

A 2020 report from the U.S. Federal Reserve System showed that people who experience LFOs are three times as likely to have medical debt, twice as likely to have student loan debt, and 1.5 times as likely to have credit card debt compared to people without LFOs.^{28,75} The Federal Reserve reported that 53% of people with LFOs or family members with LFOs said they were “doing at least okay financially” compared to 75% of people without LFOs.⁷⁵ A literature review of research published from 1990 to 2019 summarized that, “debt was generally shown to have a negative effect on financial well-being, reentry, family structure, and mental health”,²⁸ and, more specifically, “LFO debt is associated with negative mental health including stress, a sense of hopelessness, feeling overwhelmed, and substance use.”²⁸

In qualitative studies, stress, particularly about what debt to pay against other necessities such as family obligations, housing costs, and other debt was common among people with LFOs.²⁹ Stress related to unpaid legal debt can be both acute and chronic. Acute stress can include the primary stress of the imposition of LFOs and secondary stressors such as court summons, arrest warrants, and the threat of possible reincarceration.⁷⁶ Chronic stress includes the ongoing experience of anxiety due to the inability to pay, the outstanding balance of LFOs, the difficulty to meet other financial needs, and the possibility of future criminal legal intervention.⁷⁶

Therefore, there is very strong evidence that reducing LFOs for some people would likely improve mental and physical health outcomes.

Would reducing LFOs for some people reduce reincarceration?

There is strong evidence that reducing LFOs for some people may reduce reincarceration.[‡] Under current law in Washington State, failure to make an LFO payment may result in jail, work release, home detention, or some other alternative confinement.¹ People with LFOs in Washington State have discussed the stress and burden of owing LFOs and have stated that the possibility of reincarceration feels like an immediate threat, especially for people who have low-paying jobs and limited incomes.¹⁴ For example, one person with LFOs stated that if someone is delinquent on a payment, “...we often are forced back into court or told if we don’t make a payment, we’re going to go to jail. And so, there’s a sense of urgency and fear around that.”¹⁴

A review of literature published from 1990 to 2019 further explained that LFOs may directly contribute to the cycle of reincarceration, as failure to pay LFOs can result in reincarceration.²⁸ The review cited research suggesting that between 50-90% of people with LFOs have outstanding payments, and two studies showed that reincarceration due to failure to pay LFOs occurs in 17-20% of cases.²⁸ The review concluded that “LFOs contribute to a cycle of indebtedness, constrained decisions and stress, which may impact the risk of recidivism in the future, and certainly contributes to deepening impoverishment.”²⁸ Another review of literature evaluated 8 articles looking specifically at impacts of LFOs related to felony convictions on recidivism and reincarceration.³² The review found that 7 of the 8 articles concluded a positive relationship between LFOs and recidivism, such that the imposition of fees, fines, and restitution increased recidivism.³²

Though less generalizable, a study with 1,167 adolescents in Allegheny County, Pennsylvania found that the total amount of fines, fees, and restitution imposed at disposition as well as the total amount of LFOs owed at case closing statistically significantly increased the odds of committing a new offense or of being convicted of a felony or misdemeanor in adult court within 2 years.³³ The relationship remained even after controlling for age, sex, race/ethnicity, and type of crime committed.³³

[‡] The published literature uses the term ‘recidivism’ to refer to various measures, spanning from supervision revocations (i.e., technical violations like failing to meet with a supervision officer) to new felony convictions. Research findings vary depending on which measures are evaluated. The term ‘recidivism’ will be used for accuracy as appropriate. However, people may be reincarcerated for failure to pay LFOs and the literature and key informants stated that ‘reincarceration’ is more accurate and demonstrates the systemic nature in which those with fewer resources (e.g., people of color, those of low socioeconomic status) are more likely to be reincarcerated than those with greater access to resources.

Therefore, there is strong evidence that reducing LFOs would likely reduce further involvement in the criminal legal system and reincarceration for some people.

Would reducing reincarceration improve health outcomes?

There is very strong evidence indicating that involvement in the criminal legal system is linked to poor health outcomes.³⁴⁻⁴⁵ Criminal legal system contact can be measured by a number of indicators including, but not limited to, arrest, conviction, and incarceration.^{44,45} A large body of evidence supports the association between incarceration and poor health outcomes. A recent qualitative study with people who are incarcerated in Washington State prisons framed incarceration as a chronic health condition as “living conditions can become chronic health conditions, especially in prisons...long-term imprisonment leads to ‘chronic incapacitation’ lasting a lifetime, even after release. This ‘long tail of incarceration...essentially functions as a chronic disability.’”⁴¹

More specifically, people who are incarcerated are more likely to experience chronic medical conditions (e.g., hypertension, asthma, arthritis, diabetes, high body mass index), infectious diseases, lower self-rated health, increased psychiatric disorders, and a greater risk of mortality upon release.⁴¹⁻⁴⁴ Research shows that people with a history of incarceration have a significantly greater likelihood of major depression, life dissatisfaction, and mood disorders when compared to people who do not have a history of incarceration^{43,45} and that effects persist after release. Analysis of a contemporary cohort’s criminal legal system contact and mental health over time found arrest and incarceration, but not conviction, are independently associated with poor mental health.⁴⁵ Therefore, decreasing reincarceration and further involvement in the criminal legal system has the potential to improve health outcomes.

Would reducing LFOs for some people reduce collateral consequences of conviction?

We have made the informed assumption that reducing LFOs for some people may decrease collateral consequences[§] of conviction for some individuals. This informed assumption is based on a report from the U.S. Commission on Civil Rights and current Washington State laws. However, because it is not possible to determine to what magnitude LFOs would be reduced and because people would have to petition to have their LFOs reduced and conviction(s) vacated, it is unclear how many people with LFOs would experience reduced collateral consequences. Further discussion of the potential impacts of requiring people with LFOs to petition the court for remission is presented in Other Considerations.

Collateral consequences are sanctions, restrictions, or disqualifications resulting from criminal history that are imposed by federal, state, or local laws and policies.⁴⁶ In 2019, the U.S. Commission on Civil Rights (The Commission) released a report which cited 955 sources, entitled “Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects

[§] Key informants representing people with LFOs in Washington State shared that the term “collateral consequences” may imply that consequences are unintended. However, they stated these consequences are intentional and directly result from the imposition of LFOs. Researchers have also explained that, “collateral consequences may well be the unintended effects of policy, but collateral sanctions are the effects of intended ‘collateral consequence laws’-- policies that are intended to have an effect.”³² For example, LFOs, employment restrictions, and public housing restrictions “are automatic results of felony convictions and are implemented by formal and informal means in the community.”³²

on Communities.”⁴⁶ It noted, “[c]ollateral consequences of criminal records can create an array of lifelong barriers that hamper successful reentry into society—including barriers to [...] education, employment, professional licensing, housing, and receipt of public benefits. These collateral consequences can profoundly affect individuals and families and their economic security.”⁴⁶ Nationally, The Commission found, among approximately 44,631 collateral consequences, nearly 40% (17,436) are elicited by any felony conviction and about 19% (8,294) are elicited by any misdemeanor.⁴⁶ Evidence indicates that “[m]any collateral consequences are unrelated either to the underlying crime for which a person has been convicted or to a public safety purpose.”⁴⁶

Under current Washington State law, failure to make an LFO payment has formal consequences resulting in legal sanctions. If a person fails to pay an LFO and the court determines they have the means to pay but have not, they may be sentenced to jail, work release, home detention, or some other alternative confinement.¹ Similarly, if they fail to appear for a show cause hearing, the judge may issue a warrant for their arrest.¹

People with LFOs, including those making payments, also face consequences beyond the legal system for as long as the conviction cannot be vacated (cleared) from their criminal record. While people who have been convicted of certain misdemeanors, gross misdemeanors, and felonies can request the court vacate these convictions,⁷⁷ to do so they must first meet all requirements of the sentence, including paying any and all LFOs.^{78,79} As long as a person owes LFOs and the court retains authority to collect, a county clerk is authorized to continue to try to verify income and collect funds, and the person cannot request the court vacate their conviction.⁵

While we do not know how many people may experience reduced collateral consequences, we have made the informed assumption that reducing LFOs for some people may decrease collateral consequences for some individuals.

Would reducing collateral consequences increase access to employment, housing, and economic stability?

There is very strong evidence that reducing collateral consequences of conviction would likely improve access to employment opportunities, housing, and economic stability. Key informants shared that LFOs can also affect access to other financial services (personal communications, December 2021). While most of the research reviewed focused on collateral consequences resulting from felony convictions and incarceration, anyone convicted of a crime (including those who are not incarcerated) may experience collateral consequences. One researcher noted that, “owing any amount of debt...can result in some of the same negative, structural consequences that are associated with owing extremely large amounts.”⁴⁷

Access to employment opportunities

Criminal background checks often act as barriers to employment for people with a criminal record. For example, results of an audit study found that applicants with a criminal record are 50% less likely to receive a callback or job offer than applicants without criminal records.⁴⁶ Additionally, The Commission cited a 2018 Brookings Institution study which found, “during their first full year after release, only 55[%] of [people who were formerly incarcerated] reported earnings.”⁴⁶ Among those who were employed, “their mean annual income was only \$10,090,

and only 20[%] of these individuals earned more than \$15,000 that year.”⁴⁶ Licensing requirements also act as barriers for people who were convicted of a crime. About 30% of U.S. workers need licenses.⁴⁶ Nationally, about 8,000 documented state licensing restrictions apply to people convicted of any felony conviction and over 4,000 apply to people convicted of any misdemeanor.⁴⁶

While Washington State provides several protections for applicants with a criminal record, employers can still review an applicant’s criminal record in later stages of the hiring process. Key informants shared that having LFOs and being unable to vacate a conviction still presents barriers to employment (personal communications, November-December 2021). For example, A 2021 report from the Washington State Supreme Court Gender & Justice Commission explained “[a] felony makes it harder to secure employment, the inability to secure employment makes it harder to pay the LFOs, the inability to pay the LFOs makes it impossible to obtain the certificate of discharge, and the inability to obtain the certificate of discharge makes it impossible to vacate the conviction preventing the employment necessary to pay the LFOs to begin with.”⁵ Similarly, a longitudinal study of people convicted of a felony in Texas, Ohio, and Illinois between 2002 and 2006 found that people with LFOs made less money on average at 2 months after release to community, with those with LFOs earning \$9.14 per hour compared to those without LFOs earning \$10.75 per hour.⁴⁷ The author explained that, “criminal stigma, lack of work history, and the disorganized neighborhoods to which many [people] return makes securing legitimate employment—and, consequently, an income to address debt obligations—difficult. Without employment and an income stream, the threat of violation for not paying debts looms.”⁴⁷

Key informants also shared that, anecdotally, even among people who have secured employment a criminal history can limit opportunities for advancement (personal communications, December 2021). Moreover, to avoid wage garnishment, often used to collect LFOs, individuals may choose to work jobs under the table or change jobs regularly, which may further limit job security or financial stability (personal communications, November 2021).

Access to housing

Evidence indicates that people who have LFOs and cannot vacate a criminal conviction have difficulty affording housing costs and may face restrictions related to their criminal record. As such, “[a]pproximately two-thirds of [people who were formerly incarcerated] rely on family members for housing.”⁴⁶ Housing is both a critical component for reentry into community following incarceration as well as family reunification.⁵ However, public housing restrictions can limit family support available, depending on the type of conviction. Local public housing authorities have “broad discretion in deciding how to use criminal records in housing admissions.”⁵ One study found that nearly 80% of people who were formerly incarcerated reported ineligibility or denial of housing because of their or a family members’ conviction history.⁴⁶ The private market poses additional challenges as rents are expensive compared to public housing, background and credit checks are often required, and stigma is associated with criminal records.⁴⁶ For example, “private landlords can screen for criminal history up to seven years and deny residency to tenants based on that basis.”⁵

Without the financial means to pay off LFOs, people may not qualify for a mortgage.¹⁴ Anecdotally, in cases where someone has qualified, the state may put liens on any real property

someone tries to purchase, which negatively affects financing (personal communication, Living with Conviction, December 2021). As homeownership is the primary means by which families build generational wealth, this may further perpetuate the cycle of poverty.¹⁴

People who were formerly incarcerated are also at increased risk of housing insecurity and homelessness.⁴⁶ There is a large body of evidence demonstrating the association between incarceration and homelessness as “prior incarceration has been identified as a risk factor for homelessness, and individuals experiencing homelessness are vulnerable to incarceration.”⁴⁶ Evidence also indicates that “individuals who cannot secure adequate housing post-incarceration are twice as likely to recidivate.”⁴⁶ Researchers have discussed the ‘homelessness-incarceration nexus,’ where homelessness and incarceration are linked.⁴⁸ For example, a study in Seattle, Washington, found that outstanding LFOs, as opposed to other types of debt (i.e., credit card debt, medical debt, student debt, and payday loans), was associated with current durations of homelessness, averaging 1.9 years.⁴⁸

Access economic stability

A number of studies have indicated that LFOs, and the interest on them, is one of the biggest barriers to successful re-entry into communities following conviction and may perpetuate a cycle of poverty.⁴⁹⁻⁵⁴ When a person is experiencing high levels of debt, they are limited in their ability to open bank accounts, have favorable credit terms, or build credit scores.⁵⁴ Nonpayment or inability to comply with court orders can also result in an individual being unable to access credit and other banking services, such as checking and savings accounts, loans, and insurance.²⁹ For example, LFOs may show up on credit reports which can negatively impact someone’s ability to secure financing to purchase a car, which can affect access to transportation, which can further impact access to employment or educational opportunities (personal communication, December 2021). People with LFOs in Washington State also shared that people with LFOs may be hesitant to formally engage with financial institutions as “holding banking accounts with money in them opens the door to wages being garnished [to pay LFOs].”¹⁴ An inability to pay LFOs may also perpetuate fear and mistrust in financial institutions, which could result in other negative financial decisions and consequences (e.g., not paying taxes).²⁹

According to The Commission’s 2019 Report, “alleviating collateral consequences can help [people who were formerly incarcerated] lead more productive lives, secure gainful employment, find housing, and obtain the resources they need to become self-sufficient.”⁴⁶ Reducing LFOs by some degree for some people may allow some individuals to pay off their remaining LFOs and to petition the court to have their conviction(s) vacated. Once vacated, other consequences restricting access to employment, housing, and financial services can be removed or reduced. It is not possible to determine to what degree LFOs may be reduced or how many people may be able to vacate convictions thereby reducing the burden of collateral consequences. However, there is very strong evidence that decreasing collateral consequences will likely improve access to employment opportunities, housing, and financial services for those with a history of conviction.

Would increasing access to employment, housing, and economic stability improve health outcomes?

There is very strong evidence that improved access to employment opportunities, housing, and economic stability will likely result in improved health outcomes. The social determinants of health (e.g., economic stability, education access and quality, health care access and quality, neighborhood and built environment, and social and community context)⁸⁰ account for approximately 80% of health risks and outcomes.⁵⁵ Since these connections are widely accepted, less time was dedicated to researching these relationships.

For example, results from an analysis of longitudinal studies demonstrated a relationship between losing a job and negative changes in mental health including indicators such as depression, anxiety, distress, and general well-being.⁵⁶ Data also suggested that returning to employment after a period of being unemployed is associated with an improvement in mental health indicators.⁵⁶ Specific to housing instability, evidence from a peer-reviewed literature review shows that “individuals under threat of eviction present negative health outcomes, both mental (e.g., depression, anxiety, psychological distress, and suicides) and physical (poor self-reported health, high blood pressure and child maltreatment).”⁵⁷ Overall, there is very strong evidence that improved access to employment opportunities, housing, and economic stability will likely result in improved health outcomes.

Would improved health outcomes impact health inequities?

The potential impact of Proposed 3SHB 1412 on health inequities is unclear. Due to limited research on how reducing LFOs may impact different groups; the intersectionality of overlapping identities; current inequities due to racism in the criminal legal system; and the potential for the use of discretion in applying indigence criteria to vary by court and judge, it is unclear how reducing LFOs for some people may impact equity for people with LFOs.

Currently, judges use discretion to impose and sanction LFOs. By amending indigency criteria, Proposed 3SHB 1412 would allow judges the discretion to consider a person’s financial resources and the potential burden of LFOs, allowing more people to have the court consider their circumstances and ability to pay LFOs.⁶⁸ However, the imposition of LFOs and the amount of LFOs would remain at the discretion of the court and some key informants raised concerns that the imposition of LFOs may vary by judge or jurisdiction in a way that perpetuates existing inequities (personal communications, November-December 2021). For example, available evidence indicates that people of color and people experiencing financial poverty are more likely to experience LFOs.¹³ A 2020 report from the U.S. Federal Reserve System found that, “[B]lack and Hispanic adults, people with less income, and people with less education were disproportionately more likely to report being affected by incarceration, violent crime victimization, and legal expenses.”⁷⁵

Specific to Washington State, Seattle Municipal Court data from 2000-2017 suggests that, across all types of cases, people of color were ordered LFOs more frequently than whites.⁸¹ Washington State data also indicate that even after controlling for other legal, demographic, and county level characteristics, Hispanic defendants were assessed significantly higher fines and fees than white defendants.⁵¹ Lastly, there are significant variations in the assessment of LFOs depending on a number of additional factors.⁵¹ Evidence from Washington State indicates that counties with

either smaller population sizes, smaller proportions of their budgets devoted to law and justice, or higher rates of drug arrests or violent crime assess significantly higher fees and fines for cases with identical charges and prior criminal histories.⁵¹ Overall, the use of discretion in applying indigence criteria may vary by court and judge across the state and it is unclear how reducing LFOs may impact inequities.

Further discussion about inequities due to racism and income/socioeconomic status are provided below.

Inequities due to racism

It is well-documented that people of color have disproportionate contact with the criminal legal system across all age groups and at all stages of involvement⁸²⁻⁸⁵ and are more likely to experience LFOs.^{13,15} In a 2012 report, the Research Working Group, Task Force on Race and the Criminal Justice System, convened to address racial inequities in Washington’s criminal legal system, concluded that race/ethnicity influences criminal legal system outcomes more than crime commission rates.⁸⁶ The Task Force found that racial/ethnic bias “distorts decision-making at various stages in the criminal [legal] system, contributing to disparities.”⁸⁶ In 2017, the U.S. Commission on Civil Rights found that “unchecked discretion or stringent requirements to impose fines or fees can lead and have led to discrimination and inequitable access to justice” with evidence that “the impacts of these practices have been borne by communities of color...” and those experiencing financial poverty.¹³

Evidence suggests that people of color are more likely to have LFOs. A review of literature published from 1990 to 2019 stated that people of color are twice as likely to have unpaid LFOs, and one study found that Blacks are more likely to have their LFOs sent to collections.²⁸ For example, one longitudinal study found that Blacks were three times more likely to report an increase in the amount of LFOs owed from 2 months after release to community to 8 months post-release compared to whites, suggesting racial biases may exist during community supervision as well.⁴⁷

These inequities are not inherent to a person’s identity. Rather, inequities are influenced by social determinants that systematically marginalize groups due to their identity. Imposition of LFOs is influenced by social determinants of health like racism, which contribute to inequities in policing (i.e., over-policing communities of color), socioeconomic status (e.g., restrictive housing policies which limit opportunities for families of color to build generational wealth), and educational opportunities. Inequities can also be exacerbated or alleviated by intersecting identities. For example, people of color and low-income households have historically and may currently be excluded from formal financial institutions and experience as “an increasingly precarious and low wage labor market and a weakening social safety net, resulting in demand for loans to cover basic needs and emergencies, a demand met by financial services deregulation enabling banks and other lenders to offer a wider range of costly loan products” and alternative financial services (e.g., payday lenders).²⁸

Communities of color experience worse health outcomes than their white counterparts for many health measures. Poor health outcomes are also influenced by determinants of health like racism, which “contributes to social inequities (e.g., poverty) that shape health behaviors, access to

healthcare, and interactions with medical professionals.”⁸⁷ Institutionalized racism results in differential access to resources, services, and opportunities, including access to healthcare, by race.⁸⁸ A 2020 systematic review found that, “Blacks and [people of color] consistently show lower life expectancies and worse mental health outcomes than whites. Health disparities persist, and are magnified, among the incarcerated population, where people of color are disproportionately represented.”⁸⁹ In Washington State, data indicate that American Indian/Alaska Natives and Black individuals had some of the highest age-adjusted death rates and shortest life expectancies at birth compared to other groups in the state.²⁶ Communities of color also have higher rates of current tobacco use, diabetes, obesity, and poorer self-reported overall health and mental health.^{23,26,90-93} Lastly, Hispanics were most likely to report fair or poor health as compared to all other racial/ethnic groups (36% versus 16% state average).²⁷

Since Proposed 3SHB 1412 does not address the underlying systems of oppression and racism that perpetuate inequities in the criminal legal system and since people of color are more likely to experience LFOs, there is the potential that people of color would continue to disproportionately experience LFOs even if the court is allowed to waive or reduce certain LFOs if a person lacks the ability to pay. Therefore, it is unclear how provisions of the bill may impact inequities due to racism.

Inequities by income/socioeconomic status

People who are involved with the criminal legal system are disproportionately low-income and more likely to experience debt,²⁸ and data indicate that low-income populations are disproportionately burdened by LFOs in the U.S.^{2,15} Low earnings may also reflect the fact that individuals with a history of incarceration “tend to be concentrated in low-wage, temporary, or part-time jobs”.⁵ Furthermore, research on a census tract level in Washington State concluded that LFOs can predict future shares of residents in poverty, finding that LFOs are spatially concentrated at a census tract level, neighborhoods with higher poverty rates tend to have higher per capita LFO debt, and that LFOs are associated with increases in future poverty groups by certain census tracts in the state.⁹⁴ In Washington, an estimated 80-90% of defendants are indigent and do not have the ability to pay LFOs.¹⁵ Key informants working with people with LFOs in Washington State have explained that, “one’s income (or lack thereof) can determine the type and the length of involvement with the criminal [legal] system – with more potential for jail time for those unable to meet the LFO obligations of their sentence, and all the ensuing destabilizing stress and trauma involved with incarceration and threats thereof.”¹⁴ Some researchers have noted that, “[i]mplementing assessments of ability to pay may result in more equitable applications of financial sanctions and could, therefore, reduce potential adverse impacts on indigent supervisees.”⁴⁷

There is a large body of robust evidence that supports the association between income, or socioeconomic status, and health. A report by the U.S. Agency for Healthcare Research and Quality stated, “more than half of measures show that [low-income] households have worse care than high-income households” and that “significant disparities continue for people [with low-incomes] compared with high-income people who report they were unable to get or were delayed in getting needed medical care due to financial or insurance reasons.”⁹⁵ Significant correlations exist between lower income and a number of health indicators including worse overall self-reported health, depression, asthma, arthritis, stroke, oral health, tobacco use, women’s health

indicators, health screening rates, physical activity, and diabetes.¹⁹ Further, 2015 data indicate that age-adjusted death rates were higher in Washington State census tracts with higher poverty rates.²⁶ Household income was the strongest predictor of self-reported health status in Washington in 2016, even after accounting for age, education, and race/ethnicity.²⁷

However, since judges may use discretion in applying indigency criteria, it is not possible to predict in what cases and to what magnitude LFOs may be reduced and it is unclear how Proposed 3SHB 1412 may impact inequities by income/socioeconomic status.

Other inequities

Research and key informants have suggested that inequities may also exist by sex, housing status, mental health status, and educational attainment. For example, available evidence indicates that male defendants are assessed higher LFOs than female defendants.⁵¹ However, “incarceration may impede women’s access to a sustainable income even more drastically than it does for men” given the gender pay gap,⁴⁶ particularly for Black and Hispanic women with a history of incarceration.⁵ Similarly, “licensing requirements and criminal record disclosures may disproportionately impact women, as three of the five most common occupations for women in the U.S. (nurse, teacher, and nursing aid) all require licenses.”⁵ Additionally, one study found that people with higher education levels and people who were employed were more likely to be imposed LFOs, suggesting that judges were more likely to use their discretion to impose financial obligations on those they deem to have a greater ability to pay.⁴⁷ However, it is estimated that in the U.S., close to 65% of those incarcerated did not receive a high school diploma and 70% of people who are incarcerated experience low levels of literacy.⁵⁰ Lower levels of education have been shown to be associated with outcomes such as poorer self-reported health, and higher rates of diabetes, tobacco use, and mental health issues.^{22,26,27,90,92,96}

Other considerations

This Health Impact Review focused on the most direct pathways between provisions in the bill and health outcomes and health equity. Evidence for other potential pathways are discussed below.

Impacts of requiring people with LFOs to petition the court for remission

In addition to judicial discretion to reduce LFOs, Proposed 3SHB 1412 would amend RCW [10.01.160\(4\)](#) to allow a person who owes LFOs and has not willfully failed to pay them to petition the court at any time for remission of any unpaid cost. The bill would also strike the requirement that a person be released from total confinement before petitioning the court. It would also allow a person to petition the court for relief from previously imposed LFOs, including LFOs that are currently mandatory (e.g., restitution, interest on restitution, VPA). However, the requirement that the person with LFOs initiate the process presents knowledge, structural, and psychological barriers to having LFOs reduced.

First, in order to petition the court, the person needs to know that they have LFOs and that their LFOs may be eligible for reduction under the proposed legislation. However, researchers have documented that LFO data is not publicly accessible,² and key informants who work with people with LFOs have stated that it is challenging for a person to know if they have LFOs and the total amount of LFOs (personal communication, November-December 2021). LFOs may be from

multiple cities and or counties and imposed by multiple courts, and there is no central, publicly accessible LFO database for a person to determine their total LFOs (personal communication, November-December 2021).³ A person with LFOs would need to search case dockets for proper LFO documentation that may include a judgement and sentence, the order setting restitution, any LFO-related correspondence, and any order extending the court's authority to collect LFOs.³ To access these records, a person may need to contact or visit a clerk's office in person and may be required to go to several courts for comprehensive information on all of their LFOs.³ Moreover, these sources may not document additional fines and fees imposed by collection agencies (personal communication, Tacomaprobono, November 2021).

In addition to structural challenges associated with knowing the extent of LFOs, the bill requires a person with LFOs be willing to go before the court to petition the judge to reconsider previously imposed LFOs. People with LFOs as well as key informants who work with individuals with LFOs shared that fear of going in front of a court or judge to petition for the reduction of LFOs presents psychological barriers to relief (personal communications, December 2021). For example, E2SHB 1783 required the court to eliminate accrued interest on non-restitution LFOs upon motion of the person with LFOs. Anecdotally, organizations representing those with LFOs shared that not everyone who is eligible for this relief is willing to petition the court for the relief they are entitled to due to the stress and anxiety of appearing before the court based on previous interactions with the judicial system (personal communication, December 2021). Key informants noted that, except for waiving all but one previously imposed DNA collection fee, Proposed 3SHB 1412 allows additional judicial discretion but does not require judges to waive or reduce eligible LFOs (e.g., restitution, interest accrued on restitution, previously imposed VPAs). Therefore, they'd expect some number of people with LFOs who could benefit from the expanded indigency criteria to not petition the court for fear of not receiving relief and experiencing further trauma from the judicial system (personal communications, Living with Conviction, December 2021).

Since it is unclear who would petition the court for LFO relief and since there are challenges and barriers to petitioning the court, this pathway was not included in the logic model.

Impacts on LFOs in collections

In 2003, the Legislature gave county clerks the responsibility for collections in all non-state supervised cases, allowing each jurisdiction to develop collection strategies and practices.^{2,70} This authority results in varied collection of LFOs across the state.² The majority of superior court clerks' offices run collections in-house.¹⁵ However, the majority of courts of limited jurisdiction (i.e., district and municipal courts) and county clerks maintain their own contracts with collection agencies and potentially contract with many different collection agencies.⁹⁷ According to a preliminary report from the Seattle University School of Law's LFO Clinic (LFO Clinic), in which 77 different debt collection agency (DCA) contracts were reviewed, there are 18 different DCA contractors in Washington, and two DCA contractors accounted for 50 of the 77 contracts reviewed.¹⁵

There are no state-level data to determine what percentage of LFOs that has not been paid is outstanding and what percentage has been sent to collections (personal communication, Administrative Office of the Courts [AOC], December 2021). However, the total amount of

LFOs a person owes may be significantly compounded when an account is sent to collections. Specifically, statute allows a county clerk contracting with a DCA to add a “reasonable fee...to the outstanding debt for the collection agency fee incurred or to be incurred.”⁹⁸ By statute, the maximum reasonable contingent fee is up to 50% of the first \$100,000 debt owed per account and up to 35% of unpaid debt over \$100,000 per account.⁹⁸ According to the LFO Clinic’s preliminary report, nearly half of the 77 DCA contracts reviewed imposed the statutory maximum fee, and the lowest fixed fee imposed was 19% (in 6 different contracts).¹⁵

In addition, collection agencies can charge additional fees, costs, and surcharges (e.g., account set up and maintenance, convenience fees for payment, late fees).^{5,15} The LFO Clinic found that DCAs impose these charges on a per-account rather than a per-person basis, which means surcharges aggregate for people with more than one account (e.g., having LFOs in more than one county) placed with the DCA.¹⁵ Should a part of an LFO already in collections be waived, a court of limited jurisdiction would need to be in contact with each respective collection agency holding the debt.⁹⁷

Overall, while Proposed 3SHB 1412 may reduce LFOs for some people, it is not possible to predict which cases may be sent to collections and to what degree debt may compound when it is sent to collections. Therefore, this pathway was not included in the logic model.

Annotated References

1. **Policy Washington State Institute for Public. Legal Financial Obligations in Washington State: Background, Statutes, and 50-State Review.2021.**

In 2021, the Washington State Legislature allocated funding in the 2021-2023 operating budget for the Washington State Institute for Public Policy (WSIPP) to conduct a study of LFOs as defined in RCW 9.94A.030.14. The budget proviso directed the study to recommend to the Legislature “potential methods and processes to delink court-related funding and other county and local funding from the collection of [LFOs] and to provide such funding through other means.” An initial report, “Legal Financial Obligations in Washington State: Background, Statutes, and 50-State Review” was submitted to the Legislature in December 2021. Among other topics, this report provides context about the Washington State court system and LFOs, including a discussion of data limitations.

2. **Harris A. A Pound of Flesh: Monetary Sanctions as Punishment for the Poor. New York: Russell Sage Foundation; 2016.**

This book, written by sociologist Dr. Alexes Harris, focused on the rise of monetary sanctions as a tool of the criminal justice system and the ways in which these sanctions marginalize and penalize the poor. While Harris presented data from across the United States, she focused her analysis on the court practices of five counties in Washington State. To illustrate how these monetary sanctions perpetuate inequality, Harris drew conclusions from quantitative and qualitative data including sentencing data, legal documents, court hearing observations, and eighty-nine interviews with judges, clerks, attorneys, and defendants. Harris further used evidence to support two main arguments throughout the book: “(1) monetary sanctions imposed by the criminal justice system create and sustain inequality in the United States and, (2) the system of monetary sanctions is enforced by criminal justice bureaucrats whose discretion is shaped by a culture of accountability.”

3. **Allen N. Legal Financial Obligations in Washington State. Seattle, WA: Columbia Legal Services; 2018.**

In 2018, Columbia Legal Services prepared the presentation “Legal Financial Obligations in Washington State” for Pioneer Human Services. The presentation covered an introduction to LFOs, how LFOs impact reentry, recent law changes (specifically E2SHB 1783), and how an individual can address their LFOs. Types of LFOs include fees/costs/assessments, fines, and restitution inclusive of post-conviction LFOs, sanctions for failure to pay, interest accrual, and debt sent to collection agencies. The presentation outlined whether an LFO is mandatory or discretionary and provided the related statute. The presentation outlined that an LFO is ordered by a court at sentencing, at a restitution hearing, or following an appeal; mandatory deductions collected by the Department of Corrections; and LFO collection post-release. It discussed the indigent standard as defined in RCW 10.101.010 (a) – (c) and where the standard applied in statute at the time of the presentation. Consequences of LFOs include the inability to vacate a record, lifelong court supervision, imposition of debt that cannot be discharged through bankruptcy, and the impact of LFO debt on other debt. Finally, the presentation covered barriers in both understanding total LFO debt and how to access relief. Individuals may have multiple convictions, in multiple courts, in multiple jurisdictions, complicating how an individual can seek relief and avoid punishment for failure to pay. Should there be multiple convictions through

multiple courts or jurisdictions, an individual would likely need to search within each court for what they own. Court websites may not be comprehensive and require an individual to physically travel to a clerk's office. The Administrative Office of the Courts allows basic access to court record information, however, the website does not cover 16 of Washington's 39 counties, with lack of coverage in Asotin, Columbia, Cowlitz, Franklin, Garfield, Grays Harbor, Klickitat, Lewis, Mason, Pacific, Skamania, Snohomish, Thurston, Wahkiakum, Whitman, and Yakima counties.

4. **RCW 9.94A.030 - Definitions, Revised Code of Washington(2021).**

RCW 9.94A.030(31) (within Definitions) defines a "legal financial obligation" in Washington State statute.

5. **Commission Washington State Supreme Court Gender and Justice. 2021 Gender Justice Study.Olympia, WA September 2021.**

This report from the Washington Supreme Court Gender and Justice Commission is a follow-up to the Court's 1989 report on the impact of gender on selected areas of the law. For example, Chapter 15, entitled "The Gendered Impact of Legal Financial Obligations [LFOs]" discusses the historical roots of, the current imposition of, potential reforms for, and recommendations regarding LFOs. Overall, available evidence "led [authors] to the same frustrating conclusion about the effect of gender in Washington State courts: trustworthy, factual data about the effect of gender in Washington courts is hard to find, and it is especially hard to find for Black, Indigenous, other people of color, and LGBTQ+ people." Two points stood out from the data in which authors had a high degree of confidence in: "(1) gender matters – it does affect the treatment of court users (including litigants, lawyers, witnesses, jurors, and employees); and (2) the adverse impact of these gendered effects is most pronounced for Black, Indigenous, other women of color, LGBTQ+ people." The Commission put forward 5 goals for future action that prioritize work on the areas of highest need.

6. **RCW 9A.20.021 - Maximum sentences for crimes committed July 1, 1984, and after., Revised Code of Washington(2015).**

This statute establishes the maximum sentences and fines associated with crimes in Washington State.

7. **RCW 10.64.120 - Referral assessments—Probation department oversight committee., Revised Code of Washington(2021).**

RCW 10.64.120(1) establishes the authority of judges of a court of limited jurisdiction to levy a monthly assessment for services provided whenever a person is referred by the court to the misdemeanor probation department for evaluation or supervision services.

8. **Administrative Office of the Courts. JIS-Link Code Manual | Cost Fee Codes. Available at:**

https://www.courts.wa.gov/JisLink/index.cfm?fa=jislink.codeview&dir=clj_manual&file=costfee. Accessed November 1, 2021.

This AOC webpage lists many online fee codes that can be applied and collected from an individual convicted of a crime in Washington State.

9. **RCW 9.94A.753 - Restitution—Application dates., Revised Code of Washington(2018).**

RCW 9.94A.753(3) limits the amount of restitution the court may order. RCW 9.94A.753(4) states that "the court may not reduce the total amount of restitution ordered because [the individual] may lack the ability to pay the total amount."

10. **RCW 4.56.110 - Interest on judgments., Revised Code of Washington(2019).**

RCW 4.56.110(6) requires interest rates begin from the date of entry at the maximum rate permitted under RCW 19.52.020.

11. **RCW 10.82.090 - Interest on judgments—Disposition of nonrestitution interest., Revised Code of Washington(2018).**

RCW 10.82.090 establishes when restitution begins to bear interest and when the court, following a motion, may reduce or waive interest on LFOs.

12. **Fernandes A. D., Cadigan M., Edwards F., et al. Monetary Sanctions: A Review of Revenue Generation, Legal Challenges, and Reform. *The Annual Review of Law and Social Science*. 2019;15:397-413.**

Fernandes et al. considered the aftermath of Michael Brown’s death in Ferguson, Missouri as the basis for examining: (1) the revenue generating role of monetary sanction systems at national, state, and local levels and (2) the complex role and current dependence of stakeholders, agencies, businesses, and government entities on such revenue generation. Citing the Annual Survey of State and Local Government Finance (US Census Bureau 2012), the authors documented the widespread dependence municipal governments have on legally imposed fines, fees, and costs to compensate court and incarceration systems and generate revenue outside the court system. For example, fines and fees also fund entities such as the public-school system and health care. When individuals cannot pay, punitive collection measures increase as debt accrues (e.g., wage garnishment, tax liens, and driver’s license revocation). According to data in the Annual Survey of State and Local Government Finance, fines and forfeitures averaged \$40 per capita in cities with large central metropolitan areas and \$25 per capita in rural areas. In suburban large fringe municipalities, fines and forfeitures tended to be a larger share of revenue generation, compared with municipal governments in other metro types. The authors cite a 2015 Department of Justice and White House convening, “A Cycle of Incarceration: Prison, Debt and Bail Practices” that resulted in a “Dear Colleague” letter to judges across the county. The letter addressed the ability of an individual to pay an LFO, and reminded judges to consider alternatives to repayment, instead of reincarceration. Six Price of Justice grants were awarded to states, including Washington. In 2016, the National Task Force on Fines, Fees, and Bail Practices was commissioned to examine the current state of monetary sanctions across court systems and provide guidance that emphasized access, fairness, and transparency. The Task Force’s tenets of judicial discretion of fines and fees, ability to pay inquiries, and ending pay-or-stay practices have served to guide legislative and administrative changes nationally, including a 2017 report from the US Commission of Civil Rights and a set of guidelines and recommendations in 2018 from the American Bar Association. Legal challenges and reform across the country have centered on the current and future ability to pay, failure to pay, pay or stay practices, private collections, driver’s license revocation, and private probation services, and the authors discuss multiple court cases. Among them are the State of Washington v. Blazina (2015) and the State of

Washington v. Ramirez (2018), concerning an individual's current and future ability to pay fines and fees. The authors asserted that it is the absence of policies and practices with regards to ability-to-pay that result in legal challenges. The authors found that the cost of prosecuting a failure to pay instance is disproportionate to the payment that can be recovered. When local jurisdictions partner with private collection companies, the private company can levy fees and surcharges onto an existing debt, which the authors characterized as a predatory collection practice. Compounded costs, arrest warrants, and jail time as a result of an inability to pay legal debt can all have detrimental implications for the person. The authors concluded by summarizing monetary sanction reform efforts at the state and local level that align with national policy reform efforts. These included creating task forces centered on understanding monetary sanctions, developing state supreme court-issued bench cards, eliminating interest on nonrestitution fines and fees, eliminating or decreasing user fees, decoupling criminal action from motor vehicle violations, and community service provisions. Specifically, the Washington State Supreme Court issued a bench card in 2015 outlining mandatory and discretionary fines and fees, surcharges, interest and collection fees for each jurisdictional level in the state; the State Legislature passed House Bill 1783 in 2018 which limited accrual of interest of LFOs through judicial discretion, among other provisions.

13. Rights U.S. Commission on Civil. Targeted Fines and Fees Against Communities of Color: Civil Rights & Constitutional Implications.2017.

The United States Commission on Civil Rights examined the Department of Justice's enforcement of municipal court reforms with regards to the targeted imposition of fines and fees. Authors described municipal violations as frequently low-level fines remedied through monetary fines, on which, other fees may be applied when an individual has not paid or is not able to pay. The report attributed the use of fines and fees as both an easier form of punishment to administer than alternatives and a way to generate revenue. The report documented potential harm on due process and judicial ethics if states and municipalities are dependent on fees and fines. Additionally, the Commission through review of data and research found that "Municipalities that rely heavily on revenue from fines and fees have a higher than average percentage of African American and Latino populations relative to the demographics of the median municipality."

14. Espinosa D., Bosch A.B., Pacheco-Jones C. The Cost of Justice: Reform Priorities of People with Court Fines and Fees. Living with Conviction; October 2021.

This supplemental report by Living with Conviction (LwC) was produced under contract with the Washington State Administrative Office of the Courts (Personal Services Contract 21690) to accompany the Minority and Justice Commission's (MJC) forthcoming report "The Price of Justice: Legal Financial Obligations in Washington State" (Report). LwC is an advocacy partnership between people who were formerly incarcerated and lawyers and law student allies to bring an end to the imposition of legal financial obligations (LFOs) at the policy and individual levels. LwC convened three virtual sessions with nine of its justice-involved storytellers and trainers to consider and discuss the Report findings and to generate their own recommendations for LFO reform. Participants included seven women and two men, of which three are African American, one is Asian-Pacific Islander, one is Latino, one is Native American, and three are white. They reside in the following counties: King (2), Kitsap (3), Pierce (1), and Spokane (3). Authors note that time limitations prevented presentation of the bulk and breadth of

relevant findings. Thus, the scope of participants' recommendations was limited. Recommendations were categorized as relating to: 1) reducing barriers to LFO remission; 2) reducing barriers to paying off LFOs; 3) reducing the amount of LFOs imposed; and 4) conducting additional research. Participants expressed disappointment in the omission of a survey of people with "lived experience" to inform the MJC's Report. They noted that the surveys informing the MJC report did not "solicit or include information about the debilitating impacts of LFOs on people and their families." Additionally, participants noted skepticism regarding whether judges truly apply the ability-to-pay when considering LFO debt, as the three most commonly reported reasons for why courts impose LFOs by judicial officers were: 1) cost recovery / fund the criminal justice system (51 responses), 2) because the Legislature says so (29 responses), and 3) punishment (26 response).

15. Delostrinos C., Bellmer M., McAllister J. The Price of Justice: Legal Financial Obligations in Washington State. Washington State Supreme Court Minority and Justice Commission; October 2021 Draft Pre-publication.

This coming report from the Washington Supreme Court Minority and Justice Commission (Commission) is the result of the Commission's three-year grant from the U.S. Department of Justice. Through this grant, the Commission worked with a collaborative group of representatives who work within or who are impacted by Washington's system of LFOs (i.e., judges, legislators, county clerks, court administrators, prosecutors, public defenders, legal aid attorneys, community organizations, and people living with LFOs). Four subcommittees were formed to answer the following questions: 1) What is the current legal landscape, and the local and statewide policies and practices around LFOs?; 2) What do LFO collection practices look like in Washington?; 3) How much does it cost to collect LFOs, how much is actually collected vs. how much is being assessed? After LFOs are collected, where do they go?; and 4) Is the LFO Calculator a useful tool in helping improve more equitable and just practices around LFOs? The report includes results from surveys of judicial officers (n=98), prosecutors (n=18), and defense attorneys and civil and legal aid attorneys (n=76). The Commission contracted with Living with Conviction, an advocacy partnership between people who were formerly incarcerated and lawyers and law student allies to bring an end to the imposition of LFOs, to create a supplemental report that incorporated the perspectives of individuals with LFOs. The Commission expects to release the report in early 2022.

16. Engrossed Second Substitute House Bill 1783, Revised Code of Washington(2018). The Washington State Legislature passed E2SHB 1783 during the 2018 Legislative Session. The new law updated the state's laws specific to legal financial obligations (LFOs). Among other provisions, the law eliminated the 12% interest rate on non-restitution LFOs.

17. King County Government. State v. Blake resources. 2021; Available at: <https://kingcounty.gov/initiatives/felony-drug-possession-blake-decision.aspx>. Accessed 29 December 2021.

This King County, Washington, webpage provides a high-level overview of the State Supreme Court's decision in State v. Blake. It also provides resources available for those with a felony conviction(s) for simple possession of a controlled substance that are to be vacated under the ruling.

18. Engrossed Substitute Senate Bill 5092, Revised Code of Washington, §Section 610(4)(f) (2021).

Sec. 610(4)(f) allocated general fund-state appropriations for fiscal year 2022 and 2023 to the Washington State Institute for Public Policy (WSIPP) to study LFOs as defined in 9.94A.030. It directed WSIPP to "recommend to the legislature potential methods and processes to delink court related funding and other county and local funding from the collection of LFOs and to provide funding through other means." An Initial report was due to the Legislature by December 1, 2021, and the final supplemental report is due December 1, 2022.

19. Centers for Disease Control and Prevention. Behavioral Risk Factor Surveillance System Prevalence And Trends Data: Washington-2014. 2014; Available at: <http://apps.nccd.cdc.gov/brfss/page.asp?cat=XX&yr=2014&state=WA#XX>. Accessed August 16, 2016.

Behavioral Risk Factor Surveillance System (BRFSS) 2014 data from Washington state show significant correlations between lower income and a number of health indicators including: worse overall self-reported health, depression, asthma, arthritis, stroke, oral health, tobacco use, women's health indicators, health screening rates, physical activity, and diabetes. Data also show that as educational attainment increases income level also increases.

20. Subramanyam M., Kawachi I., Berkman L., et al. Relative deprivation in income and self-rated health in the United States. *Social Science and Medicine*. 2009;69(3):327-334.

Subramanyam et al. analyzed data from the 2002, 2004, and 2006 Current Population Surveys conducted by the United States Census Bureau. Researchers found that individuals from the lowest income category were over five times more likely to report being in poor health than participants from the highest income category. In addition, they found that relative deprivation (the differences in incomes between an individual and others who have higher incomes than that individual [one measure of income inequality]) appeared to explain a large part of this association.

21. Prause J., Dooley D., Huh J. Income volatility and psychological depression. *American journal of community psychology*. 2009;43(1-2):57-70.

Prause et al. analyzed a sample (n = 4,493) from the National Longitudinal Survey of Youth. Researchers found that income volatility was significantly associated with depression; and downward volatility (frequent losses in income) was significantly associated with depression even after controlling for baseline depression. High income appeared to act as a buffer, so those with lower incomes were more vulnerable to the adverse effects of downward volatility.

22. Boysun M., Wasserman C. Health of Washington State Report: Tobacco Use. Washington State Department of Health;2012.

Boysun et al. report Washington state Behavioral Risk Factor Surveillance System (BRFSS) data from 2008-2010, which indicate that adults with lower incomes are significantly more likely to report smoking cigarettes than their counterparts. Further, American Indians and Alaska Natives (AI/AN) and black populations have significantly higher smoking rates than white, Hispanic, and Asian populations. There is also significant geographic variation among counties with southwest and northeast counties in the state reporting higher rates of smoking. These counties are also

more likely to have high levels of poverty and lower proportions of the population with college degrees.

23. Ellings A. Health of Washington State Report: Obesity and Overweight. Washington State Department of Health;2015.

Ellings reported Washington state Behavioral Risk Factor Surveillance System (BRFSS) data from 2002-2014, which showed that obesity rates were the highest among families with low-incomes and that as income increased, rates of obesity decreased. Further, individuals that graduated college or attended some college had lower rates of obesity than those who had a high school education or less. Black, American Indian and Alaska Native, and Hispanic Washington residents had higher rates of obesity even after accounting for gender, income, education, and age.

24. Sweet E., Nandi A., Adam E. K., et al. The high price of debt: household financial debt and its impact on mental and physical health. *Social science & medicine*. 2013;91:94-100.

Sweet et al. analyzed data from the National Longitudinal Study of Adolescent Health (Add Health) to investigate the association between financial debt and health outcomes (n=8400). Data collection for Add Health began with Wave I in 1994/1995 with a cohort of adolescents in grades 7-12. For this study, data from Waves I through Wave IV (collected in 2007/2008 at ages 24-32) were included in the analysis. The authors found that reporting high financial household debt is significantly associated with high perceived stress and depression, higher blood pressure, and worse self-reported general health. These associations remained significant after controlled for factors such as the number of people in the household, race/ethnicity, education, income, smoking, physical activity, diet, BMI, marital status, health insurance, job loss, and home ownership. The authors conclude that household debts relative to assets is a robust predictor of health outcomes and should be explored further as a socioeconomic determinant of health in future research.

25. Weida E. B., Phojanakong P., Patel F., et al. Financial health as a measurable social determinant of health. *PLoS ONE*. 2020;15(5).

The researchers two primary objectives were to 1) introduce financial health as a root term that underlies other individual measures of economic hardship, and 2) examine caregivers of young children with low incomes, to demonstrate that outcomes on financial, physical, and mental health should be considered within social determinants of health. The research was framed to include financial health as an independent social determinant of health and part of a comprehensive public health solution that can be defined, measured, and influenced to improve health and well-being outcomes. The authors characterized other forms of economic security, such as housing and food, as symptoms of hardship in regard to financial health. In 2014, phase I of the research began through a randomized control trial (N=103); phase II was a single arm intervention study (N=373) along with a trauma-informed peer support financial empowerment program for caregivers of children age 6 years old or younger. Participants were recruited between 2015-2017. Study participants attended 16 financial empowerment sessions, through which they also developed a peer network and received support in opening and maintaining a savings account with a credit union. Participants responded to surveys every three months about economic securities, employment, finances, entrepreneurship, depression, and child health.

Finance-related questions were guided by the Center for Financial Services Innovation (CFSI)'s financial health framework of spend, save, borrow, and plan. Energy insecurity and housing insecurity were measured on independent validated scales. Physical health was self-assessed and categorized by researchers as either "excellent/good" or "fair/poor." Depressive symptoms were also self-assessed with a 10-item screening tool, Center for Epidemiological Studies-Depression Revised 10 (CES-D-10). Economic hardship and financial variables were aggregated through principal components analysis (PCA) to reduce variables into a small number of dimensions. Black women represented 90% of survey respondents and were participating in some form of public assistance. Just above a quarter of respondents (26.7%) had a savings account, and 36.9% had a checking account. Collinearity was avoided through only questions related to energy security for the PCA. Associations between financial health from the PCA and self-rated health and depression were run through separate multivariate logistic regression, modelling the odds of "poor/fair" versus "good/excellent" self-rated physical health responses and against binary yes/no depression responses. Regressions were adjusted for marital status, age, race, ethnicity, education, employment and other related social determinates of health (i.e., food, housing, and energy security). The study results showed association between financial health and mental and physical health. The health framework's financial health components of "borrow" and "plan" were associated with self-rated health and depressive symptoms, independent of food, housing, and energy security. The authors cited financial distress as one of the top stressors in America, per the American Psychological Association, linked with increased physical pain, lowered pain tolerance, and risk of coronary heart disease. The authors concluded with a call to public health professionals to improve financial health across the four domains of spend, save, borrow, and plan and to generate opportunities to increase wealth building.

26. Poel A. Health of Washington State Report: Mortality and Life Expectancy. Data Update 2015. Washington State Department of Health;2015.

Poel presents Washington state data on mortality and life expectancy. The data show that age-adjusted death rates were higher in Washington census tracts with higher poverty rates. The state data also show that American Indian/Alaska Natives, Native Hawaiian/Other Pacific Islanders, and Black residents had the highest age-adjusted death rate and shortest life expectancy at birth compared to other groups in the state.

27. Serafin M. Health of Washington State Report: Self-reported Health Status. Data Update 2016. Washington State Department of Health;2016.

Washington State data on self-reported health status showed that after accounting for age, education, race and ethnicity, household income was a strong predictor of self-reported health status. Health status varied by race and ethnicity, with close to 35% of Hispanics, 30% of American Indian/Alaska Natives, and 20% of Native Hawaiian/Other Pacific Islander reporting fair or poor health. Washington Behavioral Risk Factor Surveillance System (BRFSS) data from 2012-2014 also showed that education was a strong predictor of self-reported fair or poor health after adjusting for age.

28. Harper A., Ginapp C., Bardelli T., et al. Debt, Incarceration, and Re-entry: A Scoping Review. *American Journal of Criminal Justice*. 2020:1-29.

Harper et al. conducted a scoping review of 31 articles published from 1990 to 2019 to determine how debt impacts people who are incarcerated and community reentry. Inclusion criteria

included primary data on debt by people who are currently or were formerly incarcerated. Debt included legal financial obligations (LFOs), unpaid bills, credit card debt, child support, alternative financial services-related debt (e.g., payday loan debt). The literature has shown that people who are incarcerated primarily experience debt from three sources: debt from criminal legal system involvement (i.e., LFOs), preexisting debt that compounded during incarceration, and debt accrued during reentry. These forms of debt may exacerbate or build upon each other. For example, people who experience LFO debt are 3 times as likely to have medical debt, twice as likely to have student loan debt, 1.5 times as likely to have credit card debt compared to people without LFO debt. Previous research has shown that, “incarceration contributes to deepening existing social and racial inequalities as people who have been incarcerated and their families face serious financial hardship in the form of housing and food insecurity, unemployment, exclusion from social programs after release, and a decreased ability to build or maintain wealth.” People who are involved with the criminal legal system are disproportionately low-income and experience debt, and that these conditions are exacerbated through increased debt due to incarceration. People of color are also twice as likely to have unpaid LFO debt, contributing to the racial-wealth gap. Additionally, one study showed that Blacks are more likely to have their LFO debt sent to collections, which could further compound debt. The authors noted that people of color and low-income households have historically and may currently be excluded from formal financial institutions and experience, “an increasingly precarious and low wage labor market and a weakening social safety net, resulting in demand for loans to cover basic needs and emergencies, a demand met by financial services deregulation enabling banks and other lenders to offer a wider range of costly loan products” and alternative financial services (e.g., payday lenders). These debts may accrue prior to, during, and after release from incarceration. The authors also stated that LFO debt may directly contribute to the cycle of reincarceration, as failure to pay LFO debt can result in reincarceration. The authors evaluated 4 articles evaluating the impact of debt on recidivism or reincarceration. Overall, they found that LFO debt may cause recidivism (i.e., a new arrest) or reincarceration (i.e., due to failure to pay LFOs). They cited research suggesting that between 50-90% of people who have LFO debt are in arrears and two studies showed that reincarceration due to failure to pay LFO debt occurs in 17-20% of cases. However, one study found that restitution debt may increase time to recidivate. Harper et al. summarized that, “debt was generally shown to have a negative effect on financial well-being, reentry, family structure, and mental health.” Specifically, they summarized that, “LFO debt is associated with negative mental health including stress, a sense of hopelessness, feeling overwhelmed, and substance use.” Overall, the authors concluded that “LFOs contribute to a cycle of indebtedness, constrained decisions and stress, which may impact the risk of recidivism in the future, and certainly contributes to deepening impoverishment.”

29. Shannon S., Huebner B. M., Harris A., et al. The Broad Scope and Variation of Monetary Sanctions: Evidence From Eight States. *UCLA Criminal Justice Law Review*, 4(1). 2020:269-283.

Shannon et al. conducted an eight state, multi-method study (Multi-State Study of Monetary Sanctions) to examine the multi-tiered system of monetary sanctions. Washington State was among those state systems analyzed. The study identified common themes and policy implications through documenting LFO policies and practices, conducting interviews with both individuals with past or present legal debt and criminal justice stakeholders, and observing court proceedings. Across the eight states, four themes were identified. First, there is not a transparent

process for implementing LFOs. LFOs policy and practices vary across federal, state, and local levels. Of the eight states in the study, none had a central state repository where information on the total LFO debt could be found by the individual. In Washington, superior court clerks send detailed payment requests, and lower courts follow this practice. However, it is often very difficult for an individual with legal debt to have access and resources to understand the total LFOs owed. Second, across all eight states in the study, there was significant variation within and between lower-courts' imposed costs, in cost type and amount. Third, there are a multitude of additional consequences of the inability to pay. For example, stress, particularly about what debt to pay, was consistent among surveyed individuals who were balancing family obligations, housing, and medical bills, among other necessities. Additionally, as failure to appear before court can result in warrants or fines, which continually compound. These court proceedings are held during the day, resulting in challenges such as missed work. Nonpayment or inability to comply with court orders can result in an individual being unable to access credit and other banking services (e.g., checking and savings accounts, loans, insurance) and add to other financial institutional fears such as paying taxes. Fourth, data collection across states is variable. In Washington, researchers were able to attain statewide data for all court types and cases for multiple years, with detailed information on LFOs. The researchers' policy recommendations included: considering an individual's ability to pay and their language of indigence, concluding that monetary sanctions lead to statutory inequality, and result in penalties that increase and extend a court sentence; decoupling unpaid debt from criminal legal consequences; developing continuing education on monetary sanction law and practice; and developing and maintaining court data and access procedures.

30. Richardson T., Elliott P., Roberts R. The relationship between personal unsecured debt and mental and physical health: a systematic review and meta-analysis. *Clinical Psychology Review*. 2013;33(8):1148-1162.

Richardson et al. present a synthesis of the literature from 1984 to 2013 regarding the relationship between personal unsecured debt and health as well as a meta-analysis or pooled odds ratios (OR). In total, the authors included 65 articles from 12 different countries with the vast majority from either the United States or the United Kingdom. Evidence from the systematic review shows that 78.5% of included articles (n=51) report that being in debt was associated with worse health. The majority of the studies examined the relationship between debt and mental health with a smaller number assessing debt and self-reported physical health. Results from the pooled meta-analysis found significant associations between "...debt and mental disorder (OR = 3.24), depression (OR = 2.77), suicide completion (OR = 7.9), suicide completion or attempt (OR = 5.76), problem drinking (OR = 2.68), drug dependence (OR = 8.57), neurotic disorder (OR = 3.21) and psychotic disorders (OR = 4.03)". The authors concluded that future research is needed to better understand the specific mechanisms by which debt is associated with health and the potential impact that debt repayment may have on improving outcomes.

31. Turunen E., Hiilamo H. Health effects of indebtedness: a systematic review. *BMC Public Health*. 2014;14(489).

Turunen et al. systematically reviewed the literature from 1994 to 2013 to assess the relationship between indebtedness and mental and physical health (n=33 articles). About half of the included studies were conducted in the United States and measures for indebtedness varied widely. Evidence shows that personal debt negatively impacts mental health and is associated with an

increased rate of depression and depression-related symptoms such as anxiety and anger as well as suicidal ideation. Unpaid debt was also associated with poorer subjective health and health-related behaviors such as physical activity, alcohol and tobacco use, and diet quality. The authors conclude that indebtedness is associated with a number of serious health outcomes but that future research is needed to better understand the causal link and the role of other influences such as employment status and the type of debt.

32. Whittle T. N. Felony Collateral Sanctions Effects on Recidivism: A Literature Review. *Criminal Justice Policy Review*. 2018;29(5):505-524.

Whittle completed a review of 74 articles published between 1995 and 2014 examining the impact of various felony-related collateral consequences on recidivism. The author stated that unintended collateral consequences may include things like weakened social bonds or reduced employability. However, intended collateral sanctions (e.g., civil disenfranchisement, removal of driving privileges, public assistance bans) "are automatic results of felony convictions and are implemented by formal and informal means in the community." Moreover, "collateral consequences may well be the unintended effects of policy, but collateral sanctions are the effects of intended "collateral consequence laws"--policies that are intended to have an effect." For example, "Persons convicted of felony crimes face collateral sanctions that limit their role as citizens (e.g. voting, holding public office, serving on juries), access to public assistance benefits (e.g., public housing, federal education loans), 'privileges' such as driver's licenses, and other rights including parental rights and the right to bear arms." Among other collateral sanctions, the author examined 8 articles addressing the impact of legal financial obligations on recidivism. Seven of the 8 articles reviewed found a positive relationship between LFOs and recidivism, such that the imposition of fees, fines, and restitution may increase recidivism.

33. Piquero A. R., Jennings W. G. Research Note: Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders. *Youth Violence and Juvenile Justice*. 2017;15(3):325-340.

Piquero and Jennings conducted a cohort study of the impact of financial penalties on the likelihood of recidivism among 1,167 adolescents under supervision or who had a case closing in 2013 in Allegheny County, Pennsylvania (inclusive of the City of Pittsburgh). The analysis included fines and fees, including legal financial obligations (e.g., restitution, Victim Compensation Fund, cost of DNA collection, fees associated with specific crimes, etc.). The authors defined recidivism as, "a new delinquent offense and/or a [conviction] in adult criminal court for a felony or misdemeanor offense...in the 2 years since the end date of their current supervision offense..." They examined outcomes by age, sex, race/ethnicity, and type of crime. Adolescents in the cohort were, on average, 17.89 years old. Approximately 94% of youth were ordered to pay fines and fees, with 35.8% ordered to pay restitution. On average, youth were ordered to pay \$428.98 and 24.5% of youth had outstanding LFOs at case closing (averaging \$237.40). Youth were statistically significantly more likely to be ordered to pay restitution if they were older, male, had a prior disposition, or had committed a property offense. These characteristics were also positively and significantly associated with the total amount of fines, fees, and restitution imposed at disposition. Youth who were older, male, non-white, had prior dispositions, and who had been convicted of a property crime were also more likely to have outstanding LFO debt at case closure compared to other youth. Approximately 27% of youth experienced recidivism. Overall, the authors found that, "the total amount of fines, fees, and/or

restitution imposed at disposition...and owed upon case closing...all significantly increased the odds of a youth recidivating. Importantly, these results hold even after controlling for relevant youth demographics [i.e., age, sex, race/ethnicity] and case characteristics variables [i.e., type of crime committed].”

34. London A., Myers N. Race, incarceration, and health. *Research on Aging*. 2006;28(3):409-422.

London and Myers conducted a review of the literature around health and other outcomes for incarcerated individuals. They highlighted research that indicates that Black Americans have worse health outcomes than other racial/ethnic groups and are also disproportionately represented in the justice system. The authors also outlined data indicating the high rates of injury in jails and prison as well as the high rates of communicable disease among incarcerated and formerly incarcerated individuals. In addition, they highlight research that indicates that incarceration is associated with lower educational attainment, lower income, higher rates of unemployment, and higher involvement in jobs with high risk of injury or exposure to hazardous working conditions. Evidence also indicates that incarceration is associated with divorce and separation of families.

35. Turney K., Wildeman C., Schnittker J. As fathers and felons: Explaining the effects of current and recent incarceration on major depression *Journal of Health and Social Behavior*. 2012;53(4):465-481.

Turney et al. analyzed data from the longitudinal Fragile Families and Child Wellbeing study. The researchers found that currently and recently incarcerated fathers are more likely to report a change in employment status, separation from a child’s mother, a change in relationship quality, and depression. The association between incarceration and depression remained significant even after controlling for variables such as demographic characteristics and history of depression.

36. Wu E. , El-Bassel N., Gilbert L. . Prior incarceration and barriers to receipt of services among entrants to alternative incarceration programs: A gender-based disparity. *Journal of Urban Health: Bulletin of the New York Academy of Medicine*. 2012;89(2):384-395.

Wu et al. collected data from a random sample of adults (N=322; 83 women and 239 men) entering alternative to incarceration programs in New York City. Researchers collected data through structured interviews including information on sociodemographics, substance use, prior incarcerations, and barriers that had prevented a participant from visiting or returning to a service provider. Less than half of the participants had earned a high school diploma or GED. When analyzing collapsed data for male and female participants, they found that a greater number of prior incarcerations were significantly associated with a greater number of barriers that prevented accessing a service provider. When they analyzed the data disaggregated by sex and controlling for sociodemographic and substance use indicators, researchers found that the relationship between a greater number of prior incarcerations and greater number of service barriers experienced remained significant only for men.

37. Esposito M., Lee H., Hicken M., et al. The Consequences of Contact with the Criminal Justice System for Health in the Transition to Adulthood. *Longit Life Course Stud*. 2017;8(1):57-74.

Esposito et al. examine the association between incarceration and health in the United States during the transition to adulthood. They applied the Bayesian Additive Regression Trees (BART) to data from The National Longitudinal Study of Adolescent to Adult Health dataset (n=10,785) to model incarceration's effect on health controlling for confounding variables (93 variables, and 36 covariates categorized as: demographic characteristics, prior health status behaviors, engagement in risky behavior, social connectedness, disposition characteristics, parental characteristics, and contextual residential characteristics). Authors examined three health outcomes: 1) an indicator for cardiovascular health (i.e. hypertension or raised blood pressure), 2) a measure of general health status (i.e., excellent/very good self-reported status), and 3) a measure of mental health status (i.e., depression). The analysis of two separate samples found individuals who had been incarcerated were more likely to suffer from depression, less likely to report being in excellent or very good health, and more likely to have hypertension than their peers with no history of incarceration. To examine if the health inequalities between previously incarcerated and never incarcerated individuals was a product of incarceration rather than a product of features that occurred prior to incarceration, they used the BART methodology to estimate how different the health of individuals who had experienced incarceration would be had they actually never experienced incarceration. Results suggest that elevated risk of depression among incarcerated individuals is largely a consequence of their incarceration (~5% both before and after accounting for confounders). Similarly, a prior history of incarceration appears to decrease the probability of reporting excellent/very good health (~10%), roughly half of the decrease in probability before accounting for confounders. Results show no adverse effects of incarceration on hypertension.

38. Massoglia M., Pridemore W.A. Incarceration and Health. *Annual Reviews of Sociology*. 2015;41:291-310.

Massoglia and Pridemore conducted a review of literature to evaluate the impact of incarceration on a range of health outcomes, including chronic health conditions and mortality, for individuals who are incarcerated, family members, and communities. Specific to length of incarceration, the authors cite previous research suggesting that “the impact of the length of incarceration on health appears to be less important than the fact of incarceration itself.” As part of their agenda for future research, the authors state that more research should be done related to the “different types and lengths of correctional confinement.”

39. Murray J., Farrington DP, Sekol I. Children's antisocial behavior, mental health, drug use, and educational performance after parental incarceration: A systematic review and meta-analysis. . *Psychological Bulletin*. 2012;138(2):175-210.

Murray et al. conducted a systematic review and meta-analysis of the literature on parental incarceration and impacts on children’s later mental, emotional, and social health. They identified 40 studies that met their strict inclusion criteria. The researchers pooled the odds ratios across all samples in order to determine if children with incarcerated parents had a greater risk of each outcome than children in the control group who did not have an incarcerated parent or parents. These pooled odds ratios indicated that parental incarceration was significantly associated with antisocial behavior among their children even after controlling for covariates. In some subpopulations parental incarceration was significantly associated with children’s poor academic performance, poor mental health, and drug use, but this association was not significant for every subpopulation and did not always remain significant after controlling for covariates.

40. **Swisher RR, Roettger ME. Father's incarceration and youth delinquency and depression: Examining differences by race and ethnicity. *Journal of Research on Adolescence*. 2012;22(4):597-603.**

Swisher and Roettger analyzed data from the in-home portion of the National Longitudinal Study of Adolescent Health. Due to insufficient sample size for other racial/ethnic groups, only white, Black, and Hispanic respondents were included in this study. The researchers found that among all racial/ethnic groups father's incarceration is associated with increased depression and delinquency for the children, even after controlling for other variables such as demographics and family background measures. In addition, when considering these results by race/ethnicity, the data indicate that among Hispanic respondents, having their father incarcerated is associated with a higher propensity for delinquency than among white and Black respondents.

41. **Crane J. T., Pascoe K. Becoming Institutionalized: Incarceration as a Chronic Health Condition. *Medical Anthropology Quarterly*. 2021;35(3):307-326.**

Crane and Pascoe conducted qualitative interviews with 26 people who were incarcerated in Washington State prisons and participating in Washington State Department of Correctors (DOC) programming, "Living Longer; Living Stronger: The Chronic Disease Self-Management Program." The program was available to any person who was incarcerated as "incarceration is a chronic condition." Twenty-three men and 3 women participated in the interviews between October 2016 and March 2017. Fifteen people were participants in the program and 8 were peer-leaders; the majority of participants were white. The intent of the interviews was to examine the relationship between incarceration and social, biological, and psychological health outcomes from the perspective of people who are incarcerated. The authors stated that incarceration is a chronic health outcome as "social inequities of mass incarceration become embodied as health inequities." Moreover, they cite previous research suggesting that, "living conditions can become chronic health conditions, especially in prisons...long-term imprisonment leads to 'chronic incapacitation' lasting a lifetime, even after release. This 'long tail of incarceration...essentially functions as a chronic disability.'"

42. **Turney K. Stress Proliferation across Generations? Examining the Relationship between Parental Incarceration and Childhood Health. *Journal of Health and Social Behavior*. 2014;55(3):302-319.**

Turney conducted a multivariate analysis that incorporates children into the stress process paradigm to examine the relationship between parental incarceration and children's health. The author used data collected through the 2011-2012 National Survey of Children's Health (NSCH), a cross-sectional probability sample of non-institutionalized children ages 0-17 years in the U.S. Adjusted for demographic, socioeconomic, and familial characteristics, the analyses show parental incarceration is independently associated with 5 of 19 health conditions considered: learning disabilities, Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder, behavioral or conduct problems, developmental delays, and speech or language problems. Results suggest parental incarceration is more detrimental to behavioral or conduct problems and developmental delays than parental divorce or separations. Findings add to the literature that children's health disadvantages may be an unintended consequence of mass incarceration. In addition, household member mental health problems are associated with 15 of 19 indicators of children's health. The use of a cross-sectional dataset made it impossible to determine whether

the association is due to shared genetics, shared environments, or some combination of the two. Further research is needed to determine how mental health, incarceration, and children's mental health are associated.

43. Yi Y., Turney K., Wildeman C. Mental Health Among Jail and Prison Inmates. *American Journal of Men's Health*. 2017;11(4):900-910.

Yi et al. analyzed a sample (n = 3,139) from the Fragile Families and Child Wellbeing Study (FFCWS), a longitudinal survey commonly used to study the individual and spillover consequences of incarceration, to assess how the relationship between current incarceration and self-reported mental health varies across jail incarceration and prison incarceration. Researchers found fathers incarcerated in jails "...have higher odds of depression (OR=5.06), life dissatisfaction (OR = 3.59), and recent illicit drug use (OR=4.03)" compared to those not incarcerated. While fathers incarcerated in prisons "...have higher odds of life dissatisfaction (OR=3.88) and lower odds of heavy drinking (OR=0.32) compared with those not incarcerated." Results confirm the negative associations between incarceration and mental health and provide new insight into between-facility differences in mental health of currently incarcerated fathers. Authors conclude that further research is needed to better understand the effects of incarceration in jails and the implications for the well-being of current and former inmates' children and families.

44. Natapoff A. Misdemeanor Decriminalization. *Vanderbilt Law Review*. 2015;68(4):63.

This law review found that full decriminalization, defined as reclassification of misdemeanors as civil infractions, of non-violent offenses may reduce arrests, days of incarceration, and fines associated with offenses like driving while license suspended in the third degree (DWLS 3). However, Natapoff noted outcomes may vary dependent on how local jurisdictions apply the provisions. Defendants with the resources to pay fines can terminate contact with criminal justice system quickly and without the lasting effects of a criminal record. However, because Washington State incarcerates defendants for failure to pay fines, a fine-only model may translate into jail time for indigent individuals through the use of contempt proceedings (pay or appear). Incarceration due to failure to appear may exacerbate disparities in incarceration rates by disproportionately affecting people with low-incomes and people of color who may be less likely to find the time and transportation required to appear than offenders with more time and resources. Failure to pay may also negatively impact an individual's credit rating and their ability to rent an apartment, buy a car, or secure employment. An individual's records (arrest and criminal) and/or inability to reinstate their driver's license may also negatively affect employment (current and future prospects). Jurisdictional use of citations to measure performance or fines to fund the criminal justice systems and general budgets could exacerbate disparities by further racializing enforcement and serving as a regressive tax.

45. Sugie N. F., Turney K. Beyond Incarceration: Criminal Justice Contact and Mental Health. *American Sociological Review*. 2017;82(4):719-743.

The authors examined associations between criminal justice contact and mental health using data from the National Longitudinal Survey of Youth (NLSY97). The nationally representative survey of a contemporary cohort includes information about criminal justice contact (including arrest, conviction, and incarceration) and mental health over time. Analysis showed arrest and incarceration—but not conviction—are independently associated with poor mental health.

Arrests accounted for nearly half of the association between incarceration and mental health. Authors propose uncertainty and anticipatory stress are primary mechanisms that worsen mental health and deserve further study. Researchers document that criminal justice contact is socially patterned and is more common among non-Hispanic Blacks than non-Hispanic whites and Hispanics. However, the associations between criminal justice contact and mental health are similar across racial/ethnic groups. Researchers found respondents' previous exposure to disadvantaged ecological contexts (i.e., counties with high proportions of residents with incomes below the poverty, unemployed civilians, female-headed households, and households receiving public assistance income) had negative consequences for mental health. The authors assert the importance of mental health for other life course outcomes (e.g., physical health, socioeconomic status, children's wellbeing) and conclude that the consequences of criminal justice contact may extend beyond mental health and have broad intra- and inter-generational consequences.

46. Rights USCoC.Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities.Washington, DC: United States Commission on Civil Rights; June 2019.

This briefing report from the U.S. Commission on Civil Rights (The Commission) "provides an overview of the relevant data and arguments for and against the imposition of collateral consequences on people with criminal records." It defines the collateral consequences as "sanctions, restrictions, or disqualifications that attach to a person because of the person's criminal history." Of particular relevance to this Health Impact Review, it discusses barriers to securing employment, obtaining housing, and receiving public assistance faced by people who were formerly incarcerated. It also discusses disproportionality and how collateral consequences inequitably impact those with intersectional identities that are marginalized and oppressed. The Commission also provides recommendations based on its findings to address collateral consequences that "do not serve public safety, bear no rational relationship to the offense committed, and impede people convicted of crimes from safely reentering and becoming contributing members of society."

47. Link N. W. Criminal Justice Debt During the Prisoner Reintegration Process: Who Has It and How Much? *Criminal Justice and Behavior*. 2019;46(1):154-172.

Link evaluated data from the Returning Home Studies between 2002 and 2006. This longitudinal study followed 1,238 men convicted of a felony from baseline (i.e., 30 days prior to release to community) to one year after release in three counties in Texas, Ohio, and Illinois. Approximately 60% (740 men) completed two follow-up interviews at 2 months and 8 months after release. The analysis accounted for age, race/ethnicity, educational attainment, marital status, income, number of prior convictions, age at first arrest, type of offense, supervision status, number of months incarcerated, substance use, and state of incarceration. At 2 months post-release, approximately 44% owed LFO debt, with a median amount of \$260 owed (range \$10 to \$13,200). These amounts were about the same 8 months post-release. People were statistically significantly more likely to owe LFO debt if they had higher education, were employed, experienced substance use disorders, were incarcerated for a drug offense, or were younger at age of first arrest. The authors noted that people with LFO debt experience multiple consequences and, "owing any amount of debt...can result in some of the same negative, structural consequences that are associated with owing extremely large amounts." Looking at various demographics, the authors found that, though not statistically significant, "Those who

reported having any type of criminal [legal system]-related debt made less money on average. At [2 months post-release], those with debt earned [\$9.14] per hour, whereas those without debt earned [\$10.57] per hour.” The authors explained that, “criminal stigma, lack of work history, and the disorganized neighborhoods to which many [people] return makes securing legitimate employment—and, consequently, an income to address debt obligations—difficult. Without employment and an income stream, the threat of violation for not paying debts looms.” The strongest and most significant predictor of LFO debt was community supervision. They found that people on supervision 2-months post-release were 27 times more likely to report LFO debt. People on supervision were also 20 times more likely to report debt at 8 months post-release, compared to 2 months post-release. The authors explained that, “most supervision agencies charge fees to their supervisees, usually on a monthly basis, and that they are often not paid on time, accruing into debt burdens.” In addition, “supervision intensity is associated with increases in discovery of technical violations”, and owing debts to supervisory agencies may result in increased likelihood of reincarceration. Moreover, African Americans were three times more likely to report an increase in the amount of LFO debt owed from 2 months post-release to 8 months post-release, compared to whites, suggesting racial biases may exist during community supervision as well. The authors also found that people with higher education levels and people who were employed were more likely to be imposed LFOs, suggesting that judges were more likely to use their discretion to impose financial obligations on those they deem have great ability to pay. As part of their policy recommendations, the authors stated, “Implementing assessments of ability to pay may result in more equitable applications of financial sanctions and could, therefore, reduce potential adverse impacts on indigent supervisees.”

48. Mogk J., Shmigol V., M. Futrell, et al. Court-imposed fines as a feature of the homelessness incarceration nexus: a cross-sectional study of the relationship between legal debt and duration of homelessness in Seattle, Washington, USA. *Journal of Public Health*. 2019:1-13.

Researchers Mogk et. al examined the relationship between incarceration, legal debt, and the duration of homelessness in Seattle, Washington, through a retrospective cross-sectional questionnaire-based study. The study surveyed 101 adults experiencing homelessness in King County regarding the outcome variable (i.e., duration of current episode of homelessness) as well as predictor and confounding variables (i.e., demographics, health status, legal system involvement, debt and finances, and demographic information). The final regression model included 92 participants. The regression model found that outstanding LFO debt has a statistically significant association with current durations of homelessness ($p > 0.001$), with an average current episode of experiencing homelessness of 1.9 years. Other debt, including medical debt, student loan debt, credit card debt, and payday loans was not statistically associated with duration of homelessness. The regression model controlled for age, race (white vs. not white) and gender (male vs. non-male). The authors discuss the relationship between LFO debt and experiencing homelessness, citing pre-existing research of the ‘homelessness-incarceration nexus,’ where homelessness and incarceration are reciprocally linked. More than 60% of respondents had been convicted of a crime or had a warrant for their arrest, and more than 75% had been incarcerated. Approximately 25% of respondents reported difficulty finding permanent housing as a result of their involvement in the criminal legal system. All participants were below the threshold for housing affordability. The researchers considered the total time an

individual experiences homelessness, as opposed to an isolated episode of experiencing homelessness.

49. Collateral Costs: Incarceration's Effect on Economic Mobility. Washington, DC: The Pew Charitable Trusts;2010.

This report by the Pew Charitable Trusts is an analysis of the impacts of incarceration on economic mobility. The authors utilized a diverse array of data sources to compile this analysis including data from the Bureau of Justice Statistics, National Longitudinal Survey of Youth, and March Current Population Survey. Data show that in the United States, the criminal justice system has a particularly high overrepresentation of men, young people, people with low education levels, and racial/ethnic minorities. Further, incarceration has a negative impact on a person's economic prospects and these individuals experience less upward economic mobility in their lifetime than those who are never incarcerated. Data show that being incarcerated reduces the total earnings of males by 2%, 6% and 9% for white, Hispanic, and Black males respectively. Recommendations from the authors include strategies such as connecting people who were formerly incarcerated with the labor market to increase job training and employment, and capping the percent of a previous offender's income that can be subject to deduction for unpaid financial obligations.

50. Bannon A., Nagrecha M., Diller R. Criminal Justice Debt: A Barrier to Reentry. New York University School of Law: Brennan Center for Justice;2010.

In this report, the authors examine criminal justice fees in the fifteen states (Washington was not one of the fifteen) with the highest prison populations, which account for over 60% of all state criminal filings in the United States. Evidence indicates that across the board, states included in this analysis are adding new fees, raising existing fee amounts, and intensifying their efforts to collect outstanding fees, fines, and restitution. One important finding noted that a defendant's inability to pay their debt leads to an endless cycle of additional late fees and interest that perpetuates poverty. Further, criminal justice debt in many states is associated with a loss of voting and/or driving privileges. The authors also found that at least some jurisdictions in all the included states have arrested offenders who failed to pay their debt or did not appear for a debt-related hearing. They also indicated that many states use threat of probation or parole revocations as a tactic for collecting debts. Given the findings, the authors propose recommendations for reforming the use of fees in the criminal justice system including: exempting indigent defendants from user fees and allowing for payment plans; eliminating penalties for individuals who are unable to pay debt all at once; eliminating the ability for a person to be incarcerated for inability to pay debt; and offering community service programs as an alternative to repaying debt.

51. Beckett K., Harris A., Evans H. The Assessment and Consequences of Legal Financial Obligations in Washington State. Washington State Minority and Justice Commission;2008.

In this report, Beckett et al. examine the assessment and consequences of legal financial obligations (LFOs) assessed by the Washington State Superior Court. The authors use two sources of data including 3,366 Washington State Superior Court cases from January and February 2004 as well as qualitative interviews with fifty Washington residents who were assessed LFOs in one of four selected counties. Data from court records indicate that Hispanic defendants, male defendants, and persons convicted of drug crimes have significantly higher fees

and fines than their counterparts, including those convicted for violent crimes. Further, there is significant variation of median LFO by county, even among cases where the charges and prior criminal histories are identical. The authors found that counties with, "...smaller populations, higher drug arrest and violent crime rates, and/or comparatively small proportions of their budgets devoted to law and justice assess significantly higher fees and fines." Findings from interview data demonstrate that LFOs exacerbate many difficulties that individuals face when trying to reintegrate into their community following a criminal conviction. Examples of some of these added difficulties due to LFOs include reducing income and worsening credit scores; hindering efforts to pursue education, training, and employment; and reducing eligibility for federal benefits. The authors concluded by presenting recommendations that would reform the current LFO practices in Washington.

52. Vander Giessen M. L. Legislative Reforms for Washington State's Criminal Monetary Penalties. *Gonzaga Law Review*. 2011;47.

Vander Giessen described Washington's legal financial obligation (LFO) system and the ways in which the assessment of LFOs disproportionately impacts racial and ethnic minorities. The author presented current Washington law surrounding LFOs and the ways these laws create barriers for criminal offenders and their families. Evidence suggests that a large percentage of people who are currently or were previously incarcerated have outstanding LFOs to pay and that the interest on these LFOs is one of the biggest impediments to successful re-entry into their community because it turns a seemingly modest obligation into an overwhelming financial burden. The interest, more so than the LFO itself at times, can exacerbate poverty for those who are already in vulnerable financial situations. The author goes on to present a summary of the historical responses to LFOs as well as potential legislative reforms that the state should consider. Note, this review was written prior to the passage and implementation of E2SHB 1783 (2018) which eliminated the 12% interest rate on non-restitution LFOs.

53. Modern-Day Debtors Prisons: The Ways Court-Imposed Debts Punish People for Being Poor. American Civil Liberties Union of Washington, and Columbia Legal Services;2014.

This report focused on four counties in Washington state to highlight the legal financial obligation (LFO) practices used in the courts with the goal that this information will drive the legislature to reexamine and reform current policies. The authors observed court proceedings; reviewed court records; and interviewed debtors, attorneys, and community members in each of the four selected counties, which were Benton, Clark, Clallam, and Thurston counties. The findings showed that many courts were not properly considering a defendant's ability to pay when imposing discretionary LFOs and this often then required people to choose between buying basic necessities and paying off their debt. Further, the state's 12% interest rate continued to create insurmountable debt for individuals who are already living in poverty. In this way, LFOs are a barrier for successful re-entry into communities upon release from custody. The authors concluded by presenting recommendations to help relieve the burden of LFOs on indigent persons as well as save resources for counties who put tremendous effort into collecting debts. Note, this review was written prior to the passage and implementation of E2SHB 1783 (2018) which eliminated the 12% interest rate on non-restitution LFOs.

54. **Harris A., Evans H., Beckett K. Drawing blood from stones: Legal debt and social inequality in the contemporary United States. *American Journal of Sociology*. 2010;115(6):1753-1799.**

Harris et al. analyze national and Washington state-level data to better understand the social and legal consequences of legal financial obligations (LFOs). The authors present a brief history of the use of monetary sanctions and the ways that they have changed over time. Findings show that the use of monetary sanctions is growing in the U.S. and that the dollar value assessed is substantial compared to expected earnings, which is something courts are supposed to consider when assessing LFOs but rarely do. These sanctions create long-term debt that has negative consequences such as: loss of income and heightened stress; constraint on opportunities for growth such as housing, education, and employment; and potential for further warrants, arrest, and reincarceration as a result of nonpayment. The authors conclude that additional research is necessary to better understand the magnitude of the legal debt that is created by the entire criminal justice system.

55. **2021 County Health Rankings. 2021; Available at: <https://www.countyhealthrankings.org/explore-health-rankings/measures-data-sources/county-health-rankings-model>. Accessed 12/30/2021.**

Annually, the University of Wisconsin Population Health Institute publishes the County Health Rankings. The ranks are based on a model of 30 measures of community health that examine factors contributing to health outcomes, length of life, and quality of life. The model consistently has shown that social determinants of health account for as much as 80% of health outcomes.

56. **Paul K. I., Moser K. Unemployment impairs mental health: Meta-analyses. *Journal of Vocational Behavior*. 2009;74(3):264-282.**

Paul et al. conducted a meta-analysis of 237 cross-sectional and 87 longitudinal studies that examined the relationship between mental health and unemployment. The meta-analysis of cross-sectional data revealed that unemployed persons showed significantly more symptoms of distress and impaired well-being than did employed persons. The meta-analyses of longitudinal studies and natural experiments supported the concept that unemployment is not only correlated to distress but also causes it.

57. **Vasquez-Vera H., Palencia L., Magna I., et al. The threat of home eviction and its effects on health through the equity lens: A systematic review. *Social science & medicine*. 2017;175:199-208.**

This systematic review examined the evidence available (March 2016) on the effects of the threat of eviction on health and social equity. The literature review search yielded 2,208 articles which were reviewed by three independent pairs of researchers. Ultimately, 47 articles were reviewed, of which 86% were from Anglo-Saxon countries, mainly the U.S., and 75% were published after 2009. Most studies used either a cross-sectional (32%), cohort (28%), or qualitative (17%) design. Fifty-five percent assessed mental health as a key health indicator, 38% evaluated physical health, and 19% looked at health-related behaviors. Authors reported, "Evidence from these selected articles revealed a general consensus that individuals under threat of eviction present negative health outcomes, both mental (e.g. depression, anxiety, psychological distress, and suicides) and physical (poor self-reported health, high blood pressure and child maltreatment)."

58. RCW 7.68.035 - Penalty assessments in addition to fine or bail forfeiture—Distribution—Establishment of crime victim and witness programs in county—Contribution required from cities and towns., Revised Code of Washington(2018).

RCW 7.68.035 requires the Superior Court to impose a penalty assessment when a person is found guilty of having committed a crime. The penalty is \$500 for one or more convictions of a felony or gross misdemeanor and \$250 for each conviction of one or more misdemeanors. RCW 7.68.035 requires that funds from the Victim Penalty Assessment be used "exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes."

59. Rafael M. The High Price of Using Justice Fines and Fees to Fund Government in Washington State. Vera Institute of Justice;2021.

The report focused on two research questions: 1) the impact of fines and fees on Washingtonians, and 2) the amount of fines and fees municipalities, counties, and the state collected. The Vera Institute of Justice collected and analyzed fiscal year 2018 budget data from state, county, city, and town governments. The report documents that the typical bill for a felony conviction is \$2,540. Consequences for outstanding, unpaid LFO debt include driver's license suspension and arrest warrants; a person may be incarcerated for willful ability to pay. The research verified at least \$267.8 million of fines and fees collected across municipal, county and state levels, considered 100 municipalities and 34 counties with publicly available information. The researchers anticipate that the amount of fines and fees assessed was much higher, as collections only refers to what a person has paid in fines and fees. Additionally, not all municipalities or counties were included represented in the dataset. The list of municipalities was divided into five strata based on population size; the fifth strata was comprised of the 20 largest Washington cities. The report concludes with principles for change for policymakers to consider.

60. Pleggenkuhle B. The Financial Cost of a Criminal Conviction: Context and Consequences. *Criminal Justice and Behavior*. 2017;45(1):121-145.

Legal financial obligations (LFOs) are "cumulative monetary assessments charged over various points of a criminal sentence." Pleggenkuhle conducted semi-structured qualitative interviews with a purposive sample of 131 people under correctional supervision in Missouri in 2011 and 2012 to understand the prevalence of LFOs for people that have experienced incarceration and the impact of LFOs on re-entry (e.g., impacts on employment, social support, housing). Of the 131 participants, all had been convicted of a felony: 55% were convicted of a sex offense, 45% were convicted of a personal or property crime and 13% were convicted of a drug offense. Approximately 75% were under parole supervision, 16.8% were incarcerated, and 8.4% were on probation. No response rate was calculated. The author used a grounded theory approach to analyze responses and also evaluated responses for emerging themes. Overall, the author found that the majority of people under correctional supervision have some form of LFOs, including fines, supervision costs, and child-support-related fees and that LFOs "diminished positive opportunities for [people] by compounding precarious financial states, limiting opportunities for upward social movement, and weakening positive cognitive change." Participants in the study reported difficulty in their role within their family and their ability to support their families, or the ability to establish or maintain familial partnerships, contributing to a negative sense of self-worth. Additionally, the study found child support debt drastically increased financial

obligations. The author also provides the background that research on the scope of LFOs often does not consider the impact of child support orders and accrual, because, though potentially substantial, it is not a penalty directly related to a conviction. The article presents ranges of sentencing costs for various types of LFOs. The author concluded that social and emotional responses are not just connected to financial instability, but directly to LFOs due to the associated criminal conviction, limiting employment and housing potential and establishing credit, perpetuating social and economic inequalities.

61. Montes A. N., Wallace D., Fahmy C., et al. An Assessment of Prisoner Reentry, Legal Financial Obligations and Family Financial Support: A Focus on Fathers. *Int J Environ Res Public Health*. 2021;18(18).

Scholars have found that family support is an important facilitator of successful reentry from prison to the community. At the same time, they have argued that owing court-ordered fines or fees, also called legal financial obligations (LFOs), can act as an additional barrier to reentry, especially for parents. There remains a need to test how LFOs impact the financial support formerly incarcerated parents receive from their families. The current study responds to this gap by employing logistic regression analyses of the Serious and Violent Offender Reentry Initiative (SVORI) data to test whether owing court fees is associated with formerly incarcerated fathers' (1) perceptions of available financial support from family and (2) receipt of financial support from family. We find that owing court fees is not associated with perceptions of available financial support. However, owing court fees has a positive, statistically significant association with receiving financial support from family during the first three months after prison release. This relationship remains after accounting for whether the person owes child support or sees their children monthly. Our results suggest that LFOs may create a greater need for financial support among formerly incarcerated fathers, making the financial challenges of reentry a consequence not just for those who were incarcerated but for their loved ones as well.

62. RCW 72.09.480 - Inmate funds subject to deductions—Definitions—Exceptions—Child support collection actions., Revised Code of Washington(2015).

RCW 72.09.480(2) details deductions the Washington State Department of Corrections shall make from any funds received by an individual who is incarcerated, with some exceptions (e.g., settlements or awards resulting from legal action). The sum of deductions from this statute can be as high as 95%, depending on the person's circumstances. There is a 20% deduction for payment of LFOs for all those who have owe LFOs in any Washington State Superior Court.

63. Commission Washington State Supreme Court Minority and Justice. 2017-2019 Washington State LFO Stakeholder Consortium, Progress Report 2018 LFO Symposium.2018.

This Progress Report 2018 LFO Symposium from the Washington State Supreme Court Minority and Justice Commission (MJC) notes progress towards DOJ Price of Justice grant objectives: 1) establish a LFO Stakeholder Consortium, 2) gather data on LFOs, 3) create an LFO Calculator Tool, and 4) examine the impact of race, poverty, and incarceration. The MJC expects the final grant report to be released in early 2022.

64. Commission Washington State Supreme Court Minority and Justice. WA State Superior Courts: 2018 Reference Guide on Legal Financial Obligations (LFOs). Administrative Office of the Courts 2018.

The document is a 2-page 2018 reference guide on imposing and collecting legal financial obligations, inclusive of sanctions for non-payment and post-sentencing relief procedures.

65. RCW 43.43.7541 - DNA identification system—Collection of biological samples—Fee., Revised Code of Washington(2018).

RCW 43.43.7541 requires a legal financial obligation of \$100 for the collection of DNA from individuals convicted of certain crimes or categories of crimes outlined in RCW 43.43.754. The DNA fee is not mandatory if the offender's DNA has previously been collected as a result of a prior conviction.

66. RCW 36.18.020 - Clerk's fees, surcharges. (Effective July 1, 2022.), Revised Code of Washington(2021).

RCW 36.18.020 allows the Clerks of Superior Court to collect fees for their official services. This authority included a fee of \$200 in a criminal case upon conviction or plea of guilt, failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or affirmance of a conviction by a court of limited jurisdiction unless found indigent as defined by RCW 10.101.010(3)(a)-(c).

67. RCW 10.01.160 - Costs—What constitutes—Payment by defendant—Procedure—Remission—Medical or mental health treatment or services., Revised Code of Washington(2015).

RCW 10.01.160(02) establishes what can be considered costs for payment by a defendant in Washington State. RCW 10.01.160(03) establishes the standard for indigence. RCW 10.01.160(04) allows the defendant to petition the sentencing court for remission of payment of unpaid costs.

68. RCW 10.46.190 - Liability of convicted person for costs—Jury fee., Revised Code of Washington(2018).

Statute stipulates that if a person at the time of sentencing is indigent as defined in RCW 10.101.010(3) (a) through (c), the court shall not impose the individual to pay jury costs.

69. RCW 10.01.180 - Fine or costs—Default in payment—Contempt of court—Enforcement, collection procedures., Revised Code of Washington(2018).

RCW 10.01.180(1) establishes a defendant sentenced to pay an LFO is in contempt of court if they willfully default in their payment. RCW 10.01.180(3) establishes ability to pay criteria. 10.01.180(5) prohibits the crime victim penalty assessment from being reduced, waived, or converted to community restitution hours, if legal financial obligations have not been paid.

70. RCW 9.94A.760 - Legal financial obligations., Revised Code of Washington(2018).

RCW 9.94A.760 allows a Superior Court to order payment of a legal financial obligation as part of a sentence. Statute defines indigence as in RCW 10.101.010(3)(a)-(c) and the court may not order costs in RCW 10.01.160 is a person is found to be indigent.

71. **Commission Washington State Supreme Court Minority and Justice. WA State Courts of Limited Jurisdiction (CLJs): 2018 Reference Guide on Legal Financial Obligations (LFOs) in Criminal Cases. Administrative Office of the Courts 2018.**

The document is a 2-page 2018 reference guide on imposing and collecting mandatory and discretionary legal financial obligations in courts of limited jurisdiction, inclusive of sanctions for non-payment and post-sentencing relief procedures.

72. **RCW 3.66.120 - Court-ordered restitution—Enforcement., Revised Code of Washington(2001).**

RCW 3.66.120 allows for all court-ordered restitution to be enforced at any time in the 10-year period following a person’s release from incarceration with allowable extension for an additional 10 years if it is determined the person has not made a good faith effort to pay.

73. **RCW 6.17.020 - Execution authorized within ten years—Exceptions—Fee—Recoverable cost., Revised Code of Washington(2002).**

RCW 6.17.020 allows the superior court clerk, or designee, to seek an extension of a judgment for an additional 10 years for purposes of collecting LFOs.

74. **VanEenwyk J. Health of Washington State Report: Socioeconomic Position in Washington. Washington State Department of Health;2014.**

VanEenwyk presents data about socioeconomic position in Washington State including differences within the state as well as statewide differences compared to national data. Data indicate that compared to the United States as a whole, fewer Washington residents were living in poverty and a higher percentage of residents ages 25 and older have college degrees. However, these economic resources were not evenly distributed among all Washington residents. Females in Washington were more likely to be living in poverty than males and were also more likely to have lower wages. Further, American Indian and Alaska Native, Hispanic, and Black residents had higher percentages of living in poverty and lower median household incomes compared to other groups. Data also indicated that counties in eastern Washington were more likely to have high poverty rates and high rates of unemployment than counties in western Washington.

75. **System Board of Governors of the Federal Reserve. Report on the Economic Well-Being of U.S. Households in 2019, Featuring Supplemental Data from April 2020. Federal Reserve System; May 2020.**

In 2020, the Board of Governors of the Federal Reserve System issued the, “Report on the Economic Well-Being of U.S. Households in 2019, Featuring Supplemental Data from April 2020.” The report presents findings from the 2019 Survey of Household Economics and Decisionmaking (SHED), which is a nationally-representative, online, annual survey of U.S. adults conducted by the Federal Reserve. In 2019, 12,238 people (61.2% response rate) completed the survey. The report also included results from a follow-up survey in April 2020 with 1,030 people after the onset of the Coronavirus 2019 (COVID-19) pandemic. Among other topics in the report, the Federal Reserve presented information on people’s financial experiences related to crime and the court system. They stated that, “[B]lack and Hispanic adults, people with less income, and people with less education were disproportionately more likely to report being affected by incarceration, violent crime victimization, and legal expenses.” Approximately 6% of

adults and 20% of people who reported having an immediate family member who was incarcerated stated that their family experienced debt due to court costs and legal fees. People with LFO debt were more likely to have other forms of debt, including medical debt, credit card debt, and student loan debt. The authors stated, “exposure to crime or the legal system correlates with lower levels of financial well-being.” For example, 53% of people with LFO debt or family members with LFO debt said they were “doing at least okay financially” compared to 75% of people without LFO debt.

76. Harris A., Smith T. Open Access Monetary Sanctions as Chronic and Acute Health Stressors: The Emotional Strain of People Who Owe Court Fines and Fees. *The Russell Sage Foundation Journal of the Social Sciences*. 2022;8(2):36-56.

Harris and Smith examined how LFOs produce acute and chronic stress, mental strain, and emotional exhaustion for people who are unable to pay and how that stress leads to negative health outcomes. The authors discuss the criminal legal system as a key social determinant of health, where economic and social resources are organized and distributed within social contexts, and influence health outcomes along with biology and lifestyle choices. Scholarly research generally refers to the interaction between stress and health as the “stress process paradigm.” The stress response is dependent on what a person can control and when stress cannot be managed and controlled, poor health outcomes result. Authors considered acute and chronic stress related to LFOs: acute stress is the moment of the sanctioning itself (primary stress) and includes secondary stressors (e.g., court summons, arrest warrants, suspended driver’s licenses and possible reincarceration); chronic stress is the ongoing experience of anxiety, due to the inability to pay and the balance of LFOs and meet other financial needs and constant possible criminal legal intervention. Researchers’ analysis of monetary sanction-induced stress and strain came from interview data across eight states, including Washington. They used Washington interviews inductively coding with NVivo software. Codes included a section on emotions, health, and substance abuse, and these codes were used to pull excerpts from interview transcripts and more detailed recording. Researchers developed a codebook for reviewing open-ended responses, writing memos using codes for how respondents described stress and where, why and when monetary sanctions impacted a person’s anxiety. The procedure was replicated for all eight states in the study. Researchers supplemented qualitative work with national data from The Survey of Household Economic and Decision-making (SHED) to explore the relationship between debt and health-related outcomes and offer statistically significant findings. A one-sided t-test confirmed significant health difference between the average health rating of individuals with legal debt and those without (\bar{x} =3.12 and 3.44, respectively; $t=7.19$, $p<.001$). Person’s chi-square tests revealed a significant association between carrying legal debt and working less due to health concerns ($\chi^2=56.28$, $p<.001$); that due to costs, individuals with debt were more likely to indicate not receiving mental health care ($\chi^2=149.3$, $p<.001$), dental care ($\chi^2=349.22$, $p<.001$), or follow-up care ($\chi^2=243.93$, $p<.001$); and for individuals who had legal debt, also having accrued medical debt ($\chi^2=18.16$, $p<.001$). The researchers summarized that findings suggest that court debt can lead to differential health outcomes and suggest that stress is the linking mechanism. Qualitative findings demonstrate how the inability to pay LFOs result can cause stress, anxiety, fear, and apprehension. The inability to pay affects both the structural stability of the person with LFOs, and also their family and community’s stability. For example, a person’s credit is negatively affected by LFO debt, which adds barriers to acquiring loans and rental contracts; people experience daily difficulty buying items such as diapers, food, and clothes for children, and

paying rent payments, utility bills, and transportation costs, and often, people need to ask friends and families for financial support. Researchers concluded that “sentencing people who have no ability to pay, or who are living in situations where payment would mean forgoing food, housing, transportation, medical care, and childcare necessities, to financial penalties is unjust and excessive,” suggesting that those with the inability to pay not be sentenced to fiscal penalties. Minimally, the researchers advocated for the elimination of court summons and driver’s license suspensions for those not able to pay legal debt.

77. RCW 9.94A.640 - Vacation of offender's record of conviction., Revised Code of Washington(2021).

RCW 9.94A.640 allows a person to apply to the sentencing court to have their record vacated and sets forward prescribed tests that must be met to vacate a record.

78. RCW 9.94A.637 - Discharge upon completion of sentence—Certificate of discharge—Issuance, effect of no-contact order—Obligations, counseling after discharge. (Effective July 1, 2022.), Revised Code of Washington(2019).

RCW 9.94A.637 requires completion of all requirements of a sentence, including any and all legal financial obligations for issuance of a certificate of discharge, which is required to vacate a felony conviction.

79. RCW 9.96.060 - Vacating records of conviction for misdemeanor and gross misdemeanor offenses. (Effective July 1, 2022.), Revised Code of Washington(2021).

RCW 9.96.060 allows a person convicted of a misdemeanor or gross misdemeanor to request the sentencing court vacate the conviction and outlines requirements that need to be met for the court to consider the request. The applicant is required to have completed all the terms of the sentence.

80. Healthy People 2030: Social Determinants of Health. Available at: <https://health.gov/healthypeople/objectives-and-data/social-determinants-health>. Accessed.

The Healthy People 2030 guidelines states that the social determinants of health impact people's health, well-being, and quality of life and contribute to health disparities and inequities. Healthy People 2030 groups the social determinants of health into five domains: economic stability; education access and quality; health care access and quality; neighborhood and built environment; and social and community context. Examples of social determinants of health include: safe housing, transportation, and neighborhoods; racism, discrimination, and violence; education, job opportunities, and income; access to nutritious foods and physical activity opportunities; polluted air and water; and language and literacy skills.

81. Edwards F., Harris A. An Analysis of Court Imposed Monetary Sanctions in Seattle Municipal Courts, 2000-2017. The City of Seattle, Office for Civil Rights2020.

In this analysis of court-imposed monetary sanctions in Seattle Municipal Courts (SMC), Edwards and Harris considered LFOs owed both from criminal charges and civil infractions. Their study design considered: 1) the extent and characteristics of unpaid debt; 2) the impact of SMC fines and fees on those unable to pay; 3) exploration of racial disparities in both traffic and non-traffic infractions; and 4) the LFO process in the City of Seattle compared with Washington State. SMC Data were inclusive of cited or convicted cases from 2000-2017 via the JIS (District and Municipal Court Judicial Information System). A small number of cases were excluded

where assessed LFOs were greater than \$1 million, as well as a small number of felony cases. Census data were obtained from the 2000 and 2010 census and intervening years were input through linear interpolation. All reported LFO figures were aggregated to the case-level to ensure comparability across categories of violations and between SMC and other courts of limited jurisdiction. The authors computed three values (i.e., initial amount ordered, amount owed after court adjustment, and amount paid) to describe the LFOs assessed in each case. Authors accounted for the limitation of lack of race and ethnicity data and constructed a two-stage imputation process to recover some of the missing data. Specifically, SMC did not collect race and ethnicity data, nor did it report Latinx ethnicity, and relied on police reports for this information. Authors used a similar method to for missing race/ethnicity data in AOC datasets for other Washington courts. Incarceration history was determined by linking people to AOC data by surname and birthdate. SMC provided case type codes; DUI cases were distinguished. The authors assessed the volume of cases, debt sentence, and the amount of debt that remained uncollected. The study examined the relationship between court debt sentenced in SMC and a subsequent conviction with State Superior Court through longitudinal analysis exploring whether court debt predicts future incarceration; estimates described associations between debt and future incarceration outcomes and predicted the proportion of people by race and ethnicity in each category who were likely to experience a particular outcome. The study examined whether there were racial and ethnic differences when issuing LFOs in SMC and how likely it was a driver would have their license suspended after receiving SMC LFOs. Authors compared SMC LFO sentencing practices to other municipal courts across Washington using AOC data. The authors concluded with policy recommendations based on their analysis and encouraged policymakers to consider alternatives to LFO sentences when they cannot afford fines and fees and to offer individuals opportunities to better themselves and their communities. The authors also encouraged a broader recognition of how discretion impacts a person's LFO burden due to the large number of system stakeholders and the large set of possible costs. Finally, authors encouraged policy holders to recognize that people who are unable to pay their legal debt and people of color experience the criminal legal system differently and that policy could address the disproportionate impacts found in the study.

82. Prevention Office of Juvenile Justice and Delinquency. Disproportionate Minority Contact: Literature Review, A product of the Model Programs Guide.2014.

The Office of Juvenile Justice and Delinquency Prevention published definitions and a summary of literature related to "Disproportionate Minority Contact" in the juvenile criminal legal system. Amendments to the Juvenile Justice and Delinquency Program Act of 1974 defined "Disproportionate Minority Contact" as "the rates of contact with the juvenile justice system among juveniles of a specific minority group that are significantly different from rates of contact for white non-Hispanic juveniles." States that receive federal funding from the Office must present data by the following race/ethnicities: white (non-Hispanic), Black and African American (non-Hispanic), Hispanic or Latinx, Asian (non-Hispanic), Native Hawaiian or other Pacific Islander (non-Hispanic), American Indian/Alaska Native (non-Hispanic), and Other/Multi-racial. They define "'minority' as youth who are American Indian/Alaska Native, Asian, Black or African American, Hispanic or Latino, or Native Hawaiian or other Pacific Islander." Disproportionality must be reported for nine points of contact, including arrest, referral to court, diversion, secure detention, charges, adjudication, probation supervision, secure confinement, and transfer to adult court. They state that youth of color are more likely to have

contact with the juvenile system than white, non-Hispanic youth. There are two main theories for disproportionate contact, including differential offending/involvement (e.g. differences in youth behavior, neighborhood factors) and differential treatment/selection (e.g. structure of criminal legal system decision-making). The report provides an overview of reasons for disproportionate contact and discusses differential opportunities available for prevention and treatment.

83. Project The Sentencing. Policy Brief: Disproportionate Minority Contact in the Juvenile Justice System.2018.

This policy brief discusses Disproportionate Minority Contact, which "reflects both racial biases woven into the justice system ("differential selection") and differences in the actual offending patterns among [racial/ethnic] groups ("differential involvement")." Federally, juvenile justice system contact is defined as, "arrest, referral to court, diversion, secure detention, petition (i.e. charges filed), delinquent findings (i.e. guilt), probation, confinement in secure correctional facilities, and/or transfer to criminal/adult jurisdiction." The authors noted that disproportionate minority contact in the juvenile justice system is well-documented and the U.S. Justice Department has stated that juvenile disproportionate minority contact "is evident at nearly all contact points on the juvenile justice system continuum." Black youth are more likely to be arrested, referred to juvenile court, processed, sent to secure confinement, and transferred to adult facilities than white youth. Nationally, African American youth are twice as likely to be arrested than white youth. However, this disproportionality changes depending on the crime. For example, in 2011, Black youth were 269 percent more likely to be arrested for violating curfew laws than white youth. This disproportionality has also grown for some crimes (e.g. property crimes). In addition, "youth of color are overrepresented at many stages of the juvenile justice system as compared with their presence in the general population." For example, African-American youth comprise 14% of the general population, but account for 40% of secure placement. The authors also present data showing that most juvenile arrests are for non-violent, low-level, or non-criminal acts. Violent crimes account for only 5% of juvenile arrests. Property crimes are the most common offenses for juveniles, and account for 25% of arrests. The authors also note the intersectionality with geography. They state that, "given the realities of residential patterns by race, [differences in arrest rates by race for the same behaviors] may be reflected in higher arrest rates of minority youth than white youth for some offenses. As a result, juveniles behaving in the same way- for example, hanging out late at night- will be treated differently based on where they live, not on how they behave." This brief also outlines how policy choices can worsen disparities, including police presence in schools and the "criminalization of misbehavior," valid court orders that lead to detention, and policies impacting population density and segregated housing.

84. Robles-Ramamurthy B., Watson C. Examining Racial Disparities in Juvenile Justice. *Journal of American Academy of Psychiatry and the Law*. 2019;47(1):48-52.

Robles-Ramamurthy and Watson provided commentary on research focusing on racial inequities in the juvenile justice system. Disproportionate minority contact and racial disparities are present at every level of processing within the juvenile justice system, including at arrest, referral, diversion, detention, filings, findings, probation, confinement, and transfer to adult court. The authors summarize data from Washington State, as well as provide discussion of theories used to explain racial disparities within the criminal justice selection. The "differential offending" theory suggests that minority youth commit crimes at greater rates than white youth. However,

studies have found that "this difference would not explain the full picture of minority overrepresentation throughout the justice system." The "selection" theory suggests differential contact. For example, the National Longitudinal Survey of Youth found that Black youth were more likely to be arrested and arrested multiple times compared to white youth. The authors also cite evidence from a systematic review of 72 studies that found differential treatment of minority youth in 82% of studies and at 9 different decision points in the juvenile justice system. They summarize that, "evidence of a race effect was greater at the earlier stages of the process, including arrest, referral to court, and placement in secure detention." Robles-Ramamurthy and Watson state that, "the intricacies of racial disparities in the juvenile justice system are difficult to study because of the close relationship between crime and many of the social factors affecting communities in which minority youth are likely to be raised." Youth of color are more likely to experience higher poverty rates and lower socioeconomic status, to attend schools with zero-tolerance policies and law enforcement presence on campus, and to experience parental incarceration due to disparities in the larger criminal justice system. The authors also summarized long-term impacts of juvenile justice contact on youth, including lower high school graduation rates, higher rates of unemployment, higher rates of eviction and homelessness, and increased rates of recidivism. Overall, the authors concluded that, "addressing social factors that are at the root of disproportionate minority contact will result in significant benefit in reducing racial disparities within the juvenile justice system."

85. Sussman N. I., Lee T.G., Hallgren K.A. Use of Manifest Injustice in the Washington State Juvenile Rehabilitation Administration. *Journal of the American Academy of Psychiatry and the Law*. 2019;47:42-47.

Sussman, Lee, and Hallgren examine the use of manifest injustice in the Washington State Juvenile Rehabilitation Administration, for youth aged 15-19 years old and in custody as of January 2016. The Washington State juvenile justice system has disproportionate minority contact for all minority groups, which is consistent with previous and national research. For example, African American youth were seven times more likely, multi-racial youth were three times more likely, and Hispanic youth were 1.5 times more likely to be in Juvenile Rehabilitation Administration custody than white youth in the state. Washington State Juvenile Code includes a "manifest injustice provision" allows judges to sentence youth outside standard sentencing guidelines. The provision states that, "if the standard sentencing guidelines yield a sentence that would be an injustice to the offender or risk the safety of the public, the judge can use [manifest injustice] to impose an alternative disposition" that results in either a shorter or longer sentencing range or in institutionalization to a residential detention facility. The authors hypothesized that judges would be more likely to use the provision to decrease sentences of white youth and to increase sentences of minority youth. The authors note that low numbers decreased the statistical power of their analyses and required that they examine the impacts across five racial/ethnic groups: Caucasian, African American, Hispanic, multiracial, and "all minorities." Although not statistically significant, the authors found that African American youth had manifest injustice used less frequently to decrease their sentences than white youth. However, the authors also found that African American and multiracial youth were less likely to have manifest injustice used to increase their sentences than white youth (i.e. white youth were more likely to have their sentences increased or intensified than minority youth). The authors hypothesize that this is likely due to the fact that "African American youth reside in urban and liberal parts of the state

where judges may be more progressive and less likely to use [manifest injustice] to intensify sentences. More diversion programs targeting minority youth exist in urban areas of Washington, and more African American youth are transferred to adult court; both reduce the likelihood of minority youth receiving [manifest injustice]. Judges in rural areas of the state, which have fewer treatment resources, may be using [manifest injustice] to access services only available to court-involved youth." The authors noted that 71.2 percent of the African American population in Washington State reside in King and Pierce Counties. They note that the King County Juvenile Detention Alternative Initiative has also focused efforts to reduce racial disparities by implementing restorative principles and expanding diversion programs. The authors also state that, [Manifest injustice up or manifest injustice institutionalization] are used more often with Caucasian youth, which effectively means they have services in the community for longer periods of time or their placements at residential facilities are extended. These outcomes both restrict freedom while also allowing for critical interventions." The authors also state that the intent of judges in using manifest injustice is unclear; it is uncertain whether they use it for punishment or rehabilitation. However, when the authors looked at all youth residing in Washington State (including those not residing in juvenile justice facilities), "each of the minority groups had an increased risk of being adjudicated with [manifest injustice] to increase or intensify their sentence...This finding was greatest for African American youth, who were almost four times more likely than Caucasian youth to be sentenced with [manifest injustice intensified or manifest injustice institutionalization]." The article also notes that youth involved in the juvenile justice system have higher rates of mental illness compared to their peers.

86. Research Working Group Task Force on Race and the Criminal Justice System. Preliminary Report on Race and Washington's Criminal Justice System. *Washington Law Review*. 2012;87(1).

The Research Working Group, Task Force on Race and Criminal Justice System was Research Working Group, Task Force on Race and the Criminal Justice System convened in 2010 to address racial inequities in Washington's criminal legal system. The creation of the group was prompted by remarks of justices on the Washington Supreme Court that there was racial bias in the state's criminal legal system. Members of the Research Working Group include individuals from Washington State's schools of law. The larger Task Force includes representatives from a range of professional, legal, and community associations (e.g., Bar Association, Washington State Commission on Minority and Justice, prosecuting attorneys, advocacy organizations, etc.). In this report, the Research Working Group, Task Force on Race and the Criminal Justice System reports on disproportionality in Washington State's court, prison, and jail populations by race/ethnicity. The report concluded that, "Washington State criminal justice practices and institutions find that race and ethnicity influence criminal justice outcomes over and above [crime] commission rates." The Task Force found that the disproportionality in Washington State's criminal justice system, "is explained by facially neutral policies that have racially disparate effects...facially race-neutral policies that have a disparate impact on people of color contribute significantly to disparities in the criminal justice system. We find that racial and ethnic bias distorts decision-making at various stages in the criminal justice system, contributing to disparities." Lastly, "race and racial bias matter in ways that are not fair, that do not advance legitimate public safety objectives, and that undermine public confidence in our legal system."

87. **Prather C., Fuller T. R., Jeffries W. L. IV, et al. Racism, African American Women, and Their Sexual and Reproductive Health: A Review of Historical and Contemporary Evidence and Implications for Health Equity. *Health Equity*. 2018;2.1:249-259.**

Prather et al. examined how historical racism negatively influences present-day health outcomes of African American women. racism is a fundamental determinant of health status, contributing to "social inequalities (e.g., poverty) that shape health behavior, access to healthcare, and interactions with medical professionals." Authors conducted a literature review of peer-reviewed sources and books (English only) to characterize the link between historical and current experiences of racism and sexual and reproductive health outcomes. Specifically, authors looked at Slavery (1619-1865), Black Codes/Jim Crow (1865-1965), Civil Rights (1955-1975), and Post-Civil Rights (1975-2018) eras. Results indicate "[t]he legacy of medical experimentation and inadequate healthcare coupled with social determinants has exacerbated African American women's complex relationship with healthcare systems." Additionally, authors found social determinants of health associated with institutionalized and interpersonal racism "may make African American women more vulnerable to disparate sexual and reproductive health outcomes." They conclude that historical and enduring legacy of racism in the U.S. should inform the development of culturally appropriate programs, research, and treatment efforts to achieve health equity.

88. **Alhusen J. L., Bower K. M., Epstein E., et al. Racial Discrimination and Adverse Birth Outcomes: An Integrative Review. *J Midwifery Womens Health*. 2016;61(6):707-720.**

Alhusen et al. conducted an integrative review of literature published from 2009 to 2015 examining the relationship between racial discrimination and adverse birth outcomes. Fifteen studies met the inclusion criteria (4 qualitative, descriptive studies; 11 quantitative studies - 8 convenience samples, 3 population-based studies using quota sampling and stratified sampling), and articles were assessed using the Preferred Reporting Items for Systematic Review and Meta-Analyses (PRISMA) 2009 framework. The majority of studies were conducted to assess the relationship between racial discrimination and adverse birth outcomes in African Americans. Three studies discussed experiences of institutionalized racism in both accessing and receiving prenatal care, and two studies examined racial discrimination during prenatal care and racial discrimination as a barrier to accessing prenatal care. African American women in one qualitative study described experiencing both interpersonal level (e.g., racial slurs directed at them) and institutionalized racism during prenatal care (e.g., differential treatment based on receipt of public assistance). One study reviewed used a biological marker to examine the effects of race and racial discrimination. Results indicate that at every point, African American women exhibited higher antibody titers than white women ($P < .001$). "The effect was most pronounced among African American women who reported experiencing higher levels of racial discrimination in the first and second trimesters ($P = .03$ and $P = .04$, respectively), supporting a role that chronic stress is related to this association." Authors conclude there is a significant need for the development and testing of interventions addressing racial discrimination at the provider level (i.e., students and professionals). They recommend interventions adapt a community-based participatory research framework to establish mutually respectful relationships grounded in learning, shared responsibilities, and capacity building. Additionally, relationship-based services like home visiting may be beneficial for individuals who experienced delayed access to prenatal care.

89. Strong J. D., Reiter K., Gonzalez G., et al. The body in isolation: The physical health impacts of incarceration in solitary confinement. *PLoS One*. 2020;15(10):e0238510.

Strong et al. examined "how solitary confinement correlates with self-reported adverse physical health outcomes, and how such outcomes extend the understanding of the health disparities associated with incarceration." Researchers used a mixed methods approach, conducting semi-structured, in-depth interviews; Brief Psychiatric Rating Scale (BPRS) assessments; and systematic reviews of medical and disciplinary files for subjects. The study sample consisted of a random sample of prisoners (n = 106) in long-term solitary confinement in the Washington State Department of Corrections (DOC) in 2017. In total, 225 individuals incarcerated in IMU (62%), responded to the in-person paper survey, and 106 participated in a random sample for in-depth interviews. Sixty-seven of those approached (n=173) refused to participate in an initial interview, resulting in a 39% refused rate which was comparable to similar studies of people experiencing incarceration. Twenty-five percent of the sample was lost at one-year follow-up (i.e., 4 participant refusals; 21 institutional, out-of-state, and parole transfers precluding follow-up; and one death). The random sample had a mean age of 35 years; mean stay of 14.5 months in IMU; mean of 5 prior convictions resulting in prison sentences; and was 42% white, 12% African American, 23% Latino, and 23% "Other." The interview sample did not significantly differ from the total population held in IMU at the time of the sampling. Researchers also analyzed administrative data for the entire population of prisoners in the state in 2017 (n = 17,943). "In the initial 2017 assessment, all study subjects were housed in IMU. At the time of re-interview in 2018, 52 respondents had moved into the general prison population, while 28 remained in IMU. Of those who were still in IMU in 2018, 21% (6 of 28) reported clinically significant somatic concerns, compared to just 8% of those housed in the general prison population (4 of 52). While the descriptive data appear to demonstrate higher proportions of somatic concern in IMU settings, the difference was not statistically significant at the 95% confidence Level (p = 0.09; Fisher's exact test)." Results of the broader survey of people in IMU showed, "Of the 225 survey respondents, 63% expressed health concerns; 48% were taking medication; 17% had arthritis; and 8% had experienced a fall in solitary confinement. Importantly for the analysis of emerging symptoms in particular, 82% replied 'yes' to the question 'Have you experienced any changes in yourself?' while in the IMU." Physical symptoms experienced in solitary confinement included "(1) skin irritations and weight fluctuation associated with the restrictive conditions of solitary confinement; (2) un-treated and mis-treated chronic conditions associated with the restrictive policies of solitary confinement; (3) musculoskeletal pain exacerbated by both restrictive conditions and policies."

90. Health of Washington State: Mental Health. Washington State Department of Health;2008.

Washington Behavioral Risk Factor Surveillance System (BRFSS) data from 2004-2006 indicate that American Indians and Alaska Natives and non-Hispanic black individuals reported significantly higher rates of poor mental health compared to other groups. These relationships persisted after adjusting for additional factors such as age, income, and education. Washington BRFSS data also show an association between lower annual household income and poor mental health, a relationship that was also shown with education. It is well understood that mental health is also closely related to other areas such as employment opportunities, physical health, substance abuse. This report also highlights a Washington state study from 2002 that reveal that

16% of individuals in the state who were receiving publicly funded mental health services had at least one felony conviction, a rate over twice that of the general population.

91. Christensen T., Weisser J. Health of Washington State Report: Tobacco Use. Washington State Department of Health;2015.

Christensen et al. report Washington state Behavioral Risk Factor Surveillance System (BRFSS) data from 2012 to 2014 indicate that prevalence of smoking decreases as income and levels of education increase. Further, American Indians and Alaska Natives (AI/AN) and Native Hawaiian/Other Pacific Islander populations have significantly higher smoking rates than white, black, Hispanic, and Asian populations.

92. Kemple A. Health of Washington State Report: Diabetes. Washington State Department of Health;2016.

Kemple presents data from Washington regarding diabetes in the state. Washington data from the Behavioral Risk Factor Surveillance System (BRFSS) from 2012-2014 show that among adults, the percentage of persons with diabetes increased as household income decreased. This relationship was also true for education. Further, BRFSS data also show that age-adjusted diabetes prevalence is highest among those who are Hispanic, American Indian/Alaska Native, and black.

93. VanEenwyk J. Health of Washington State Report: Socioeconomic Position in Washington. Washington State Department of Health;2016.

VanEenwyk presents data about socioeconomic position in Washington State including differences within the state as well as statewide differences compared to national data. Data indicate that compared to the United States as a whole, fewer Washington residents are living in poverty and a higher percentage of residents ages 25 and older have college degrees. However, these economic resources are not evenly distributed among all Washington residents. Females in Washington were more likely to be living in poverty than males and were also more likely to have lower wages. Further, American Indian and Alaska Native, Hispanic, and black residents had higher percentages of living in poverty and lower median household incomes compared to other groups. Data also indicated that counties in eastern Washington were more likely to have high poverty rates and high rates of unemployment than counties in western Washington.

94. 2.0 Research Working Group of Task Force. 2021 Report on Race and Washington's Criminal Justice System.2021.

The Research Working Group is an ad hoc task force comprised of organizations and individuals to document race disproportionalities in the criminal legal system. The report was jointly published by Gonzaga Law Review, the Seattle University Law Review, and the Washington Law Review. Appendix F focuses on LFO research. The appendix discussed ongoing research by Kate O'Neil, Ian Kennedy, and Alexes Harris that examines debt owed at the community level by census tract. The appendix summarized that the research concluded that LFOs can predict future shares of residents in poverty and found that (1) LFOs are spatially concentrated at a census tract level and that certain census tracts carry identifiable amounts of LFO debts compared to other census tracts; (2) neighborhoods with higher poverty rates also tended to have higher per capita LFO debt; and (3) LFOs were associated with increases in future poverty rates experienced by certain census tracts in Washington.

95. Quality Agency for Healthcare Research and. 2016 National Healthcare Quality and Disparities Report. Rockville, MD: U.S. Department of Health and Human Services; 2017.

The National Healthcare Quality and Disparities Report is mandated by Congress and has been published every year since 2003. The intent of the report is to summarize the quality of healthcare received by people in the United States, and to identify disparities in care and access to care by priority populations. It evaluates quality of healthcare in six core areas: person-centered care, patient safety, healthy living, effective treatment, care coordination, and care affordability. The report uses four main measures for access to care: having health insurance, having a usual source of care, encountering difficulties when seeking care, and receiving care as soon as wanted. Over time, the report has found disparities in access to care based on race and ethnicity, socioeconomic status, age, sex, disability status, sexual orientation, gender identity, and residential location. The 2016 report concluded that, while disparities in health insurance status decreased since 2014, about 70% of care affordability measures have not changed since 2010 and disparities in care persisted for poor and uninsured populations in all priority areas. The report stated, "poor people experienced worse access to care compared with high income people for all access measures except one" and "more than half of measures show that poor and low-income households have worse care than high-income households." Further, the report concluded that "significant disparities continue for poor people compared with high-income people who report they were unable to get or were delayed in getting need medical care due to financial or insurance reasons."

96. Mersky J.P., Reynolds A.J. Educational success and adult health: Findings from the Chicago longitudinal study. *Prevention Science*. 2009;10(2):175-195.

Mersky and Reynolds analyzed data from a Chicago prospective cohort study that followed 1,539 individuals. Results indicate that high school completion was significantly and inversely associated with tobacco smoking, frequent substance use, depression, and no health insurance coverage. In addition, middle school reading performance was inversely related to depression and student's expectation to attend college was negatively associated with frequent drug use.

97. Courts Administrative Office of the. Administrative Office of the Courts Fiscal Note (1412 2S HB H-1065.3 Legal financial obligations). In: Courts -AOot, ed. Olympia, WA 2021.

This Administrative Office of the Courts Fiscal Note discussed the indeterminate costs of waiving non-restitution legal financial obligations. It describes how courts of local jurisdiction would need to be in contact with their respective collection agencies to waive interest and that amounts of accrued interest are likely significant. The fiscal note includes a total amount of accrued non-restitution interest that of \$644 million that has accrued over many years.

98. RCW 19.16.500 - Public bodies may retain collection agencies to collect public debts—Fees., Revised Code of Washington(2011).

RCW 19.16.500 allows agencies, departments, taxing districts, and political subdivisions of state, counties and cities to collect public debt through collection agencies. Government entities may also impose a reasonable fee owed by the debtor to the collection agency.