

This section does not apply to the providing of competitive telephone service as defined in RCW 82.16.010.

NEW SECTION. Sec. 10. There is added to chapter 35.21 RCW a new section to read as follows:

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from toll telephone services subject to the fee or tax.

NEW SECTION. Sec. 11. There is added to chapter 35A.82 RCW a new section to read as follows:

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from toll telephone services subject to the fee or tax.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. This act shall take effect on January 1, 1982.

Passed the House April 23, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 145

[Substitute House Bill No. 128]

VICTIMS AND WITNESSES OF CRIMES, RIGHTS—DOMESTIC VIOLENCE
LAW, ENFORCEMENT—RAPE CRISIS CENTER RECORDS

AN ACT Relating to crime victims and witnesses; amending section 3, chapter 105, Laws of 1979 ex. sess. and RCW 10.99.030; amending section 4, chapter 105, Laws of 1979 ex. sess. and RCW 10.99.040; adding a new chapter to Title 7 RCW; adding new sections to chapter 10.99 RCW; and adding a new section to chapter 70.125 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. In recognition of the civic and moral duty of victims and witnesses of crimes to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated

with dignity, respect, courtesy, and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Crime" means an act committed by an adult or juvenile in this state which, if committed by a competent adult person, would constitute a crime as provided in either federal, state, or local statute.

(2) "Family member" means spouse, child, parent, or legal guardian.

(3) "Victim" means a person against whom a crime has been committed.

(4) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding has been commenced.

NEW SECTION. Sec. 3. There shall be a reasonable effort made to assure that victims and witnesses of crimes have the following rights:

(1) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim or witness is involved;

(2) To be notified that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

(3) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(4) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(5) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(6) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(7) To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(8) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance; and

(9) To have the family members of homicide victims afforded all of the rights established under subsections (1) through (4), (6), and (7) of this section.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act shall constitute a new chapter in Title 7 RCW.

Sec. 5. Section 3, chapter 105, Laws of 1979 ex. sess. and RCW 10.99-.030 are each amended to read as follows:

(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(3)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer may exercise arrest powers with reference to the criteria in RCW 10.31-.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(4) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(5) The law enforcement agency shall forward the offense report to the appropriate prosecutor (~~as soon as practicable,~~) within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

(6) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(7) Records kept pursuant to subsections (3) and (6) of this section shall be made identifiable by means of a departmental code for domestic violence.

Sec. 6. Section 4, chapter 105, Laws of 1979 ex. sess. and RCW 10.99-.040 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any defendant charged with a crime involving domestic violence is released from custody before trial on bail or personal recognizance, the court authorizing the release may prohibit the defendant from having any contact with the victim. Wilful violation of a court order issued under this section is a misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter ((9A)) 10.99 RCW ((and is also subject to civil contempt proceedings)). A certified copy of such order shall be provided to the victim.

NEW SECTION. Sec. 7. There is added to chapter 10.99 RCW a new section to read as follows:

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020(2) shall be required to appear in person before a magistrate within one judicial day after the arrest; or

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020(2) and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. The decision of the judge and findings of fact in support thereof shall be in writing.

Appearances required pursuant to this section are mandatory and cannot be waived.

NEW SECTION. Sec. 8. There is added to chapter 10.99 RCW a new section to read as follows:

Any law enforcement agency in this state may enforce this chapter as it relates to orders restricting the defendants' ability to have contact with the victim.

NEW SECTION. Sec. 9. There is added to chapter 70.125 RCW a new section to read as follows:

Records maintained by rape crisis centers shall not be made available to any defense attorney as part of discovery in a sexual assault case unless:

(1) A written pretrial motion is made by the defendant to the court stating that the defendant is requesting discovery of the rape crisis center's records;

(2) The written motion is accompanied by an affidavit or affidavits setting forth specifically the reasons why the defendant is requesting discovery of the rape crisis center's records;

(3) The court reviews the rape crisis center's records in camera to determine whether the rape crisis center's records are relevant and whether the probative value of the records is outweighed by the victim's privacy interest in the confidentiality of such records taking into account the further trauma that may be inflicted upon the victim by the disclosure of the records to the defendant; and

(4) The court enters an order stating whether the records or any part of the records are discoverable and setting forth the basis for the court's findings.

Passed the House April 25, 1981.

Passed the Senate April 26, 1981.

Approved by the Governor May 14, 1981.

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CHAPTER 146

[Substitute House Bill No. 145]

SMALL HARVESTERS—TIMBER TAX

AN ACT Relating to timber taxes; adding new sections to chapter 84.33 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 84.33 RCW a new section to read as follows:

As used in sections 1 and 2 of this act, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Small harvester" means every person who from his own privately owned land or from the privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with