

notice served by the arresting officer. Upon the arrested person's failing or refusing to sign such written promise, he may be taken into custody of such arresting officer and so remain or be placed in confinement: PROVIDED, That an officer shall not serve or issue any traffic citation or notice for any offense or violation except either when said offense or violation is committed in his presence or when the citation and notice may be issued or served pursuant to RCW 46.64.017.

Sec. 3. Section 46.64.050, chapter 12, Laws of 1961 and RCW 46.64.050 are each amended to read as follows:

It shall be a misdemeanor for any person to violate any of the provisions of this title unless violation is by this title or other law of this state declared to be a felony ((or)), a gross misdemeanor, or a violation.

Unless another penalty is in this title provided, every person convicted of a misdemeanor for violation of any provisions of this title shall be punished accordingly.

NEW SECTION. Sec. 4. This 1976 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 5, 1976.

Passed the Senate March 4, 1976.

Approved by the Governor March 13, 1976.

Filed in Office of Secretary of State March 13, 1976.

CHAPTER 96

[House Bill No. 1342]

CRIMINAL PROCEDURE—CONVICTED DEFENDANTS— FINES AND COSTS, LIABILITY

AN ACT Relating to criminal procedure; and adding new sections to chapter 10.01 RCW.

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

NEW SECTION. Section 1. There is added to chapter 10.01 RCW a new section to read as follows:

- (1) The court may require a convicted defendant to pay costs.
- (2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.
- (3) The court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.
- (4) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the court which sentenced him for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate

family, the court may remit all or part of the amount due in costs, or modify the method of payment under section 2 of this act.

NEW SECTION. Sec. 2. There is added to chapter 10.01 RCW a new section to read as follows:

When a defendant is sentenced to pay a fine or costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the sentence the fine or costs shall be payable forthwith.

NEW SECTION. Sec. 3. There is added to chapter 10.01 RCW a new section to read as follows:

(1) When a defendant sentenced to pay a fine or costs defaults in the payment thereof or of any installment, the court on motion of the prosecuting attorney or upon its own motion may require him to show cause why his default should not be treated as contempt of court, and may issue a show cause citation or a warrant of arrest for his appearance.

(2) Unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment, the court may find that his default constitutes contempt and may order him committed until the fine or costs, or a specified part thereof, is paid.

(3) When a fine or assessment of costs is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine or costs from those assets, and his failure to do so may be held to be contempt unless he makes the showing required in subsection (2) of this section.

(4) The term of imprisonment for contempt for nonpayment of a fine or costs shall be set forth in the commitment order, and shall not exceed one day for each twenty-five dollars of the fine or costs, thirty days if the fine or assessment of costs was imposed upon conviction of a violation or misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fine or costs shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.

(5) If it appears to the satisfaction of the court that the default in the payment of a fine or costs is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the fine or costs or the unpaid portion thereof in whole or in part.

(6) A default in the payment of a fine or costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine or costs shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine or costs has actually been collected.

Passed the House February 12, 1976.

Passed the Senate March 6, 1976.

Approved by the Governor March 13, 1976.

Filed in Office of Secretary of State March 13, 1976.