

their functional limitations. The information shall also contain phone numbers and addresses of private and public resources available to assist individuals and their families in assessing the service needs of the individual so that they may make informed decisions about choosing long-term care services.

*Sec. 18 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 19. Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989.

Passed the House April 22, 1989.

Passed the Senate April 21, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 18, Engrossed Substitute House Bill No. 1864 entitled:

"AN ACT Relating to quality of care in nursing homes."

Section 18 requires that the Department of Social and Health Services, in cooperation with the state's area agencies on aging, prepare and distribute printed information regarding the availability of long-term care services in the state. In addition, nursing homes are required to make the information available prior to accepting new residents for admission. While there is value in the information required under this section, there is no budget appropriation for the development, printing and distribution of this material.

With the exception of section 18, Engrossed Substitute House Bill No. 1864 is approved."

CHAPTER 373

[Substitute House Bill No. 1983]

CONTEMPT OF COURT

AN ACT Relating to contempt of court; amending RCW 5.56.061, 7.43.110, 7.43.120, 7.48.080, 7.80.160, 10.01.180, 10.14.120, 11.64.022, 13.32A.250, 13.34.165, 18.72.190, 18.130.070, 18.130.190, 26.09.160, 26.18.050, 26.44.067, 41.56.490, 47.64.140, 79.01.704, and 82.32.110; adding a new chapter to Title 7 RCW; repealing RCW 7.20.010, 7.20.020, 7.20.030, 7.20.040, 7.20.050, 7.20.060, 7.20.070, 7.20.080, 7.20.090, 7.20.100, 7.20.110, 7.20.120, 7.20.130, 7.20.140, and 9.23.010; and prescribing penalties.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter:

(1) "Contempt of court" means intentional:

(a) Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;

(b) Disobedience of any lawful judgment, decree, order, or process of the court;

(c) Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or

(d) Refusal, without lawful authority, to produce a record, document, or other object.

(2) "Punitive sanction" means a sanction imposed to punish a past contempt of court for the purpose of upholding the authority of the court.

(3) "Remedial sanction" means a sanction imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform.

NEW SECTION. Sec. 2. A judge or commissioner of the supreme court, the court of appeals, or the superior court, and a judge of a court of limited jurisdiction may impose a sanction for contempt of court under this chapter.

NEW SECTION. Sec. 3. (1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in section 5 of this act, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in section 1(1)(b) through (d) of this act. The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

NEW SECTION. Sec. 4. (1) Except as otherwise provided in section 5 of this act, a punitive sanction for contempt of court may be imposed only pursuant to this section.

(2)(a) An action to impose a punitive sanction for contempt of court shall be commenced by a complaint or information filed by the prosecuting attorney or city attorney charging a person with contempt of court and reciting the punitive sanction sought to be imposed.

(b) If there is probable cause to believe that a contempt has been committed, the prosecuting attorney or city attorney may file the information or complaint on his or her own initiative or at the request of a person aggrieved by the contempt.

(c) A request that the prosecuting attorney or the city attorney commence an action under this section may be made by a judge presiding in an action or proceeding to which a contempt relates. If required for the administration of justice, the judge making the request may appoint a special counsel to prosecute an action to impose a punitive sanction for contempt of court.

A judge making a request pursuant to this subsection shall be disqualified from presiding at the trial.

(d) If the alleged contempt involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial of the contempt unless the person charged consents to the judge presiding at the trial.

(3) The court may hold a hearing on a motion for a remedial sanction jointly with a trial on an information or complaint seeking a punitive sanction.

(4) A punitive sanction may be imposed for past conduct that was a contempt of court even though similar present conduct is a continuing contempt of court.

(5) If the defendant is found guilty of contempt of court under this section, the court may impose for each separate contempt of court a fine of not more than five thousand dollars or imprisonment in the county jail for not more than one year, or both.

NEW SECTION. Sec. 5. (1) The judge presiding in an action or proceeding may summarily impose either a remedial or punitive sanction authorized by this chapter upon a person who commits a contempt of court within the courtroom if the judge certifies that he or she saw or heard the contempt. The judge shall impose the sanctions immediately after the contempt of court or at the end of the proceeding and only for the purpose of preserving order in the court and protecting the authority and dignity of the court. The person committing the contempt of court shall be given an opportunity to speak in mitigation of the contempt unless compelling circumstances demand otherwise. The order of contempt shall recite the facts, state the sanctions imposed, and be signed by the judge and entered on the record.

(2) A court, after a finding of contempt of court in a proceeding under subsection (1) of this section may impose for each separate contempt of court a punitive sanction of a fine of not more than five hundred dollars or

imprisonment in the county jail for not more than thirty days, or both, or a remedial sanction set forth in section 3(2) of this act. A forfeiture imposed as a remedial sanction under this subsection may not exceed more than five hundred dollars for each day the contempt continues.

NEW SECTION. Sec. 6. A state administrative agency conducting an action or proceeding or a party to the action or proceeding may petition the superior court in the county in which the action or proceeding is being conducted for a remedial sanction specified in section 3 of this act for conduct specified in section 1 of this act in the action or proceeding.

NEW SECTION. Sec. 7. A party in a proceeding or action under this chapter may seek appellate review under applicable court rules. Appellate review does not stay the proceedings in any other action, suit, or proceeding, or any judgment, decree, or order in the action, suit, or proceeding to which the contempt relates.

Sec. 8. Section 301, page 188, Laws of 1854 as last amended by section 399, Code of 1881 and RCW 5.56.061 are each amended to read as follows:

~~((Such))~~ A failure to attend as required by the subpoena, shall also be considered a contempt ~~((, and upon due proof, the witness may be punished by a fine not exceeding fifty dollars, and stand committed until said fine and costs are paid or until discharged by due course of law))~~ of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 9. Section 14, chapter 141, Laws of 1988 and RCW 7.43.110 are each amended to read as follows:

An intentional violation of a restraining order, preliminary injunction, or order of abatement under this chapter is ~~((punishable as))~~ a contempt of court ~~((by a fine of not more than ten thousand dollars which may not be waived, or by imprisonment for not more than one year, or by both))~~ as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 10. Section 15, chapter 141, Laws of 1988 and RCW 7.43.120 are each amended to read as follows:

Whenever the owner of a building or unit within a building upon which the act or acts constituting the contempt have been committed, or the owner of any interest in the building or unit has been ~~((guilty of a))~~ found in contempt of court, and fined in any proceedings under this chapter, the fine is a lien upon the building or unit within a building to the extent of the owner's interest. The lien is enforceable and collectible by execution issued by order of the court.

Sec. 11. Section 4, chapter 127, Laws of 1913 as amended by section 16, chapter 1, Laws of 1979 and RCW 7.48.080 are each amended to read as follows:

~~((In case of the))~~ A violation of any injunction granted under ~~((the provisions of))~~ RCW 7.48.050 through 7.48.100 ~~((as now or hereafter amended, the court or judge may summarily try and punish the offender.~~

The proceedings shall be commenced by filing with the clerk of the court an information under oath, setting out the alleged facts constituting such violation, upon which the court or judge shall cause an attachment to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of this section shall be punished by a fine of not less than two hundred nor more than one thousand dollars, or by imprisonment in the county jail not less than three nor more than six months, or by both fine and imprisonment)) is a contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 12. Section 24, chapter 456, Laws of 1987 and RCW 7.80.160 are each amended to read as follows:

(1) A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

(2) Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction(~~(- PROVIDED, That))~~. A written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by an appearance by counsel.

(3) A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in ~~((civil))~~ contempt of court ~~((after notice and hearing))~~ as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 13. Section 3, chapter 96, Laws of 1975-'76 2nd ex. sess. and RCW 10.01.180 are each amended to read as follows:

(1) ~~((When))~~ A defendant sentenced to pay a fine or costs who 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))~~ is in contempt of court(~~(; and))~~ as provided in chapter 7.— RCW (sections 1 through 7 of this act). The court 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)~~ (3) If a term of imprisonment for contempt for nonpayment of a fine or costs is ordered, the term of imprisonment 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))~~ (4) 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))~~ (5) 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.

Sec. 14. Section 12, chapter 280, Laws of 1987 and RCW 10.14.120 are each amended to read as follows:

Any willful disobedience by the respondent of any temporary anti-harassment protection order or civil antiharassment protection order issued under this chapter (~~(shall)~~) subjects the respondent to criminal penalties under this chapter. Any respondent who willfully disobeys the terms of any order issued under this chapter may also, in the court's discretion, be found in contempt of court and subject to penalties under chapter ~~((7-20))~~ 7.— RCW (sections 1 through 7 of this act).

Sec. 15. Section 11.64.022, chapter 145, Laws of 1965 as amended by section 16, chapter 234, Laws of 1977 ex. sess. and RCW 11.64.022 are each amended to read as follows:

If the surviving partner or partners fail or refuse to furnish an inventory or list of liabilities, to permit an appraisal, or to account to the personal representative, or to furnish a bond when required pursuant to RCW 11.64.016, ~~((said))~~ the court shall order a citation to issue requiring the surviving partner or partners to appear and show cause why they have not furnished an inventory list of liabilities, or permitted an appraisal or why they should not account to the personal representative or file a bond. The citation shall be served not less than ten days before the return day designated therein, or such shorter period as the court upon a showing of good cause deems appropriate. If the surviving partner or partners neglect or refuse to file an inventory or list of liabilities, or to permit an appraisal, or fail to account to the court or to file a bond, after they have been directed to

do so, they may be punished for a contempt (~~(or the court may commit them to jail until they comply with the order of the))~~ of court as provided in chapter 7.— RCW (sections 1 through 7 of this act). Where the surviving partner or partners fail to file a bond after being ordered to do so by the court, the court may also appoint a receiver of the partnership estate with like powers and duties of receivers in equity, and order the costs and expenses of the proceedings to be paid out of the partnership estate or out of the estate of the decedent, or by the surviving partner or partners personally, or partly by each of the parties.

Sec. 16. Section 14, chapter 298, Laws of 1981 and RCW 13.32A.250 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is (~~(punishable as))~~ a contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act), subject to the limitations of subsection (2) of this section.

(2) (~~(Contempt under this section is punishable by))~~ The court may impose a fine of up to one hundred dollars and imprisonment for up to seven days, or both for contempt of court under this section.

(3) A child (~~(found in))~~ imprisoned for contempt under this section shall be imprisoned only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) (~~(The procedure in a contempt proceeding held under this section is governed by RCW 7.20.040 through 7.20.080, as now law or hereafter amended:~~

(5)) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

Sec. 17. Section 1, chapter 257, Laws of 1985 and RCW 13.34.165 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is (~~(punishable as))~~ contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

(2) The maximum term of imprisonment that may be imposed as a punitive sanction for contempt of court under this section is ((punishable by)) confinement for up to seven days.

(3) A child (~~(found in))~~ imprisoned for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4) (~~(The procedure in a contempt proceeding under this section is governed by RCW 7.20.040 through 7.20.080:~~

(5)) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

Sec. 18. Section 19, chapter 202, Laws of 1955 and RCW 18.72.190 are each amended to read as follows:

Subpoenas issued by the board to compel the attendance of witnesses at any investigation or hearing shall be served in accordance with the provisions of chapter 5.56 RCW, governing the service of subpoenas in court actions. The board shall issue subpoenas at the request and on the behalf of the accused. In case any person contumaciously refuses to obey a subpoena issued by the board or to answer any proper question put to him during the hearing or proceeding, the superior court of any county in which the proceeding is carried on or in which the person guilty of refusal to obey the subpoena or to answer the question resides or is found shall have jurisdiction, upon application by the board, to issue to such person an order requiring him to appear before the board or its hearing committee, there to produce evidence if so ordered, or there to give testimony concerning the matter under investigation or question. Any failure to obey such order of the court (~~((may be punished by the court as a civil))~~) is a contempt ((may be punished)) of court under chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 19. Section 7, chapter 279, Laws of 1984 as amended by section 4, chapter 259, Laws of 1986 and RCW 18.130.070 are each amended to read as follows:

(1) The disciplining authority may adopt rules requiring any person, including, but not limited to, licensees, corporations, organizations, health care facilities, and state or local governmental agencies, to report to the disciplining authority any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplinary authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplinary authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order (~~((shall be punished by the court as civil))~~) is a contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority any conviction, determination, or finding that the licensee has committed unprofessional conduct or is unable to practice with reasonable skill or safety. Failure to report within thirty days of notice of the conviction, determination, or finding constitutes grounds for disciplinary action.

Sec. 20. Section 19, chapter 279, Laws of 1984 as last amended by section 7, chapter 150, Laws of 1987 and RCW 18.130.190 are each amended to read as follows:

(1) The director shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the director shall have the same authority as provided the director under RCW 18.130.050. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced (~~(by civil contempt)~~) under section 6 of this act.

(2) The attorney general, a county prosecuting attorney, the director, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account.

***Sec. 21. Section 16, chapter 157, Laws of 1973 1st ex. sess. as amended by section 12, chapter 460, Laws of 1987 and RCW 26.09.160 are each amended to read as follows:**

The performance of parental functions and the duty to provide child support are distinct responsibilities in the care of a child. If a party fails to comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another may be deemed to be in bad faith. If the court finds that a parent acted in bad faith in an attempt to condition parental functions, in a refusal to perform the duties provided in the parenting plan, or in the hindrance of performance by the other parent, the court has broad discretion to punish the conduct by a punitive award or other remedies, including ~~((civil or criminal))~~ contempt of court, and may consider the conduct in awarding attorneys' fees.

***Sec. 21 was vetoed, see message at end of chapter.**

Sec. 22. Section 5, chapter 260, Laws of 1984 and RCW 26.18.050 are each amended to read as follows:

(1) If an obligor fails to comply with a support order, a petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action ((if an obligor fails to comply with a support order)) as provided in chapter 7.— RCW (sections 1 through 7 of this act). If the court finds there is reasonable cause to believe the obligor has failed to comply with a support order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) ~~((If the court finds, after hearing, that the obligor failed to comply with the support order previously entered and that the obligor has not established that he or she was unable to comply with the order, the court shall find the obligor in contempt of court. Contempt under this section is punishable by imprisonment in the county jail for a term of up to one hundred eighty days. The court may suspend all or a part of the sentence upon terms that are reasonably likely to result in compliance with the support order.~~

(5)) If the obligor contends at the hearing that he or she lacked the means to comply with the support order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order.

Sec. 23. Section 2, chapter 35, Laws of 1985 and RCW 26.44.067 are each amended to read as follows:

(1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction pursuant to RCW 26.44.063 who refuses to comply with the provisions of such order when requested by any peace officer of the state shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified by a notary public or the clerk of the court to be an accurate copy of the original court order which is on file. The copy may be supplied by the court or any party.

(3) The remedies provided in this section shall not apply unless restraining orders subject to this section shall bear this legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO ((CIVIL)) CONTEMPT PROCEEDINGS.

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule(~~(-PROVIDED, That))~~. No right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest.

Sec. 24. Section 8, chapter 131, Laws of 1973 and RCW 41.56.490 are each amended to read as follows:

The right of uniformed employees to engage in any strike, work slowdown, or stoppage is not granted. (~~Where~~) An organization(;) recognized as the bargaining representative of uniformed employees subject to this chapter(, as amended by this 1973 amendatory act;) that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 and 41.56.490, or willfully offers resistance to such order, whether by strike or otherwise, ((the punishment for each day that such contempt persists, may be a fine fixed in the discretion of the court in an amount not to exceed two hundred fifty dollars per day. Where)) is in contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act). An employer that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.56.480 or willfully offers resistance to such order(, the punishment for each day that such contempt persists may be a fine, fixed at the discretion of the court in an amount not to exceed two hundred fifty dollars per day to be assessed against the employer))

is in contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act).

Sec. 25. Section 5, chapter 15, Laws of 1983 and RCW 47.64.140 are each amended to read as follows:

(1) It is unlawful for any ferry system employee or any employee organization, directly or indirectly, to induce, instigate, encourage, authorize, ratify, or participate in a strike or work stoppage against the ferry system.

(2) It is unlawful for ferry system management to authorize, consent to, or condone a strike or work stoppage; or to conduct a lockout; or to pay or agree to pay any ferry system employee for any day in which the employee participates in a strike or work stoppage; or to pay or agree to pay any increase in compensation or benefits to any ferry system employee in response to or as a result of any strike or work stoppage or any act that violates subsection (1) of this section. It is unlawful for any official, director, or representative of the ferry system to authorize, ratify, or participate in any violation of this subsection. Nothing in this subsection prevents new or renewed bargaining and agreement within the scope of negotiations as defined by this chapter, at any time. No collective bargaining agreement provision regarding suspension or modification of any court-ordered penalty provided in this section is binding on the courts.

(3) In the event of any violation or imminently threatened violation of subsection (1) or (2) of this section, any citizen domiciled within the jurisdictional boundaries of the state may petition the superior court for Thurston county for an injunction restraining the violation or imminently threatened violation. Rules of civil procedure regarding injunctions apply to the action. However, the court shall grant a temporary injunction if it appears to the court that a violation has occurred or is imminently threatened; the plaintiff need not show that the violation or threatened violation would greatly or irreparably injure him or her; and no bond may be required of the plaintiff unless the court determines that a bond is necessary in the public interest. Failure to comply with any temporary or permanent injunction granted under this section ~~((constitutes))~~ is a ~~((punishable))~~ contempt of court as provided in chapter 7.— RCW (sections 1 through 7 of this act). ~~The ((punishment shall not exceed))~~ court may impose a penalty of up to ten thousand dollars for an employee organization or the ferry system, for each day during which the failure to comply continues~~((, or imprisonment in a county jail for officials thereof not exceeding six months, or both such fine and imprisonment)).~~ ~~The ((punishment))~~ sanctions for a ferry employee found to be in contempt shall be as provided in chapter ~~((7.20))~~ 7.— RCW (sections 1 through 7 of this act). An individual or an employee organization which makes an active good faith effort to comply fully with the injunction shall not be deemed to be in contempt.

(4) The right of ferry system employees to engage in strike or work slowdown or stoppage is not granted and nothing in this chapter may be construed to grant such a right.

(5) Each of the remedies and penalties provided by this section is separate and several, and is in addition to any other legal or equitable remedy or penalty.

(6) In addition to the remedies and penalties provided by this section the successful litigant is entitled to recover reasonable attorney fees and costs incurred in the litigation.

(7) Notwithstanding the provisions of chapter 88.04 RCW and chapter 88.08 RCW, the department of transportation shall promulgate rules and regulations allowing vessels, as defined in RCW 88.04.300, as well as other watercraft, to engage in emergency passenger service on the waters of Puget Sound in the event ferry employees engage in a work slowdown or stoppage. Such emergency rules and regulations shall allow emergency passenger service on the waters of Puget Sound within seventy-two hours following a work slowdown or stoppage. Such rules and regulations that are promulgated shall give due consideration to the needs and the health, safety, and welfare of the people of the state of Washington.

Sec. 26. Section 186, chapter 255, Laws of 1927 as last amended by section 54, chapter 292, Laws of 1971 ex. sess. and RCW 79.01.704 are each amended to read as follows:

In all hearings pertaining to public lands of the state, as provided by this chapter, the board of natural resources, or the commissioner of public lands, as the case may be, shall, in its or his discretion have power to issue subpoenas and compel thereby the attendance of witnesses and the production of books and papers, at such time and place as may be fixed by the board, or the commissioner, to be stated in the subpoena and to conduct the examination thereof.

~~((Said))~~ The subpoena may be served by the sheriff of any county, or by any officer authorized by law to serve process, or by any person eighteen years of age or over, competent to be a witness, but who is not a party to the matter in which the subpoena is issued.

Each witness subpoenaed by the board, or commissioner, as a witness on behalf of the state, shall be allowed the same fees and mileage as provided by law to be paid witnesses in courts of record in this state, said fees and mileage to be paid by warrants on the general fund from the appropriation for the office of the commissioner of public lands.

Any person duly served with a subpoena ~~((, as herein provided, and))~~ who ~~((shall))~~ fails to obey the same, without legal excuse, shall be considered in contempt ~~((, and))~~. The board, or commissioner, shall certify the facts thereof to the superior court of the county in which such witness may reside ~~((, and upon legal proof thereof, such witness shall suffer the same penalties as are now provided in like cases))~~ for contempt of court ~~((and))~~

proceedings as provided in chapter 7.— RCW (sections 1 through 7 of this act). The certificate of the board, or commissioner, shall be considered by the court as prima facie evidence of the ~~((guilt of the party charged with))~~ contempt.

Sec. 27. Section 82.32.110, chapter 15, Laws of 1961 as amended by section 79, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.32.110 are each amended to read as follows:

The department of revenue or its duly authorized agent may examine any books, papers, records, or other data, or stock of merchandise bearing upon the amount of any tax payable or upon the correctness of any return, or for the purpose of making a return where none has been made, or in order to ascertain whether a return should be made; and may require the attendance of any person at a time and place fixed in a summons served by any sheriff in the same manner as a subpoena is served in a civil case, or served in like manner by an agent of the department of revenue.

The persons summoned may be required to testify and produce any books, papers, records, or data required by the department with respect to any tax, or the liability of any person therefor.

The director of the department of revenue, or any duly authorized agent thereof, shall have power to administer an oath to the person required to testify; and any person giving false testimony after the administration of such oath shall be guilty of perjury in the first degree.

If any person summoned as a witness before the department, or its authorized agent, fails or refuses to obey the summons, or refuses to testify or answer any material questions, or to produce any book, record, paper, or data when required to do so, ~~((he shall be guilty of))~~ the person is subject to proceedings for contempt, and the department shall thereupon institute contempt of court proceedings in the superior court of Thurston county(;-) or of the county in which such person resides(~~(, to punish him as for contempt of court)~~).

NEW SECTION. Sec. 28. The following acts or parts of acts are each repealed:

(1) Section 667, page 167, Laws of 1869, section 730, page 147, Laws of 1877, section 725, Code of 1881 and RCW 7.20.010;

(2) Section 668, page 168, Laws of 1869, section 731, page 148, Laws of 1877, section 726, Code of 1881 and RCW 7.20.020;

(3) Section 669, page 168, Laws of 1869, section 732, page 148, Laws of 1877, section 727, Code of 1881 and RCW 7.20.030;

(4) Section 670, page 169, Laws of 1869, section 733, page 148, Laws of 1877, section 728, Code of 1881 and RCW 7.20.040;

(5) Section 671, page 169, Laws of 1869, section 734, page 149, Laws of 1877, section 729, Code of 1881 and RCW 7.20.050;

(6) Section 672, page 169, Laws of 1869, section 735, page 149, Laws of 1877, section 730, Code of 1881 and RCW 7.20.060;

(7) Section 673, page 169, Laws of 1869, section 736, page 149, Laws of 1877, section 731, Code of 1881 and RCW 7.20.070;

(8) Section 674, page 169, Laws of 1869, section 737, page 149, Laws of 1877, section 732, Code of 1881 and RCW 7.20.080;

(9) Section 675, page 170, Laws of 1869, section 738, page 149, Laws of 1877, section 733, Code of 1881 and RCW 7.20.090;

(10) Section 676, page 170, Laws of 1869, section 739, page 149, Laws of 1877, section 734, Code of 1881 and RCW 7.20.100;

(11) Section 677, page 170, Laws of 1869, section 740, page 149, Laws of 1877, section 735, Code of 1881 and RCW 7.20.110;

(12) Section 678, page 170, Laws of 1869, section 741, page 150, Laws of 1877, section 736, Code of 1881, section 8, chapter 51, Laws of 1957 and RCW 7.20.120;

(13) Section 679, page 170, Laws of 1869, section 742, page 150, Laws of 1877, section 737, Code of 1881 and RCW 7.20.130;

(14) Section 680, page 171, Laws of 1869, section 743, page 150, Laws of 1877, section 738, Code of 1881, section 70, chapter 258, Laws of 1984, section 5, chapter 202, Laws of 1988 and RCW 7.20.140; and

(15) Section 667, page 167, Laws of 1869, section 725, Code of 1881, section 120, chapter 249, Laws of 1909 and RCW 9.23.010.

NEW SECTION. Sec. 29. Sections 1 through 7 of this act shall constitute a new chapter in Title 7 RCW.

NEW SECTION. Sec. 30. 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.

Passed the House April 19, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 12, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 21, Substitute House Bill No. 1983 entitled:

"AN ACT Relating to contempt of court."

Section 21 of this act amends RCW 26.09.160, which is also amended by section 1 of Substitute Senate Bill No. 6009. That measure substantially revises statutes relating to custodial interference and failure to adhere to the residential provisions of parenting agreements. In order to avoid confusion, I have vetoed section 21 of this act.

With the exception of section 21, Substitute House Bill No. 1983 is approved."