

defense to any civil or criminal action arising out of such ordered cutting, rerouting or diverting of telephone lines.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act will govern notwithstanding the provisions of any other section of this chapter and notwithstanding the provisions of chapter 9.73 RCW.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act are each added to chapter 70.85 RCW.

NEW SECTION. Sec. 6. This 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 Senate February 19, 1979.

Passed the House March 1, 1979.

Approved by the Governor March 13, 1979.

Filed in Office of Secretary of State March 13, 1979.

CHAPTER 29

[Engrossed Senate Bill No. 2417]

CRIMES—RESTITUTION

AN ACT Relating to crimes and punishments; amending section 1, chapter 24, Laws of 1905 as last amended by section 7, chapter 200, Laws of 1967 and RCW 9.92.060; amending section 4, chapter 227, Laws of 1957 as last amended by section 1, chapter 29, Laws of 1969 and RCW 9.95.210; and amending section 9A.20.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.20.030.

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

Section 1. Section 1, chapter 24, Laws of 1905 as last amended by section 7, chapter 200, Laws of 1967 and RCW 9.92.060 are each amended to read as follows:

Whenever any person shall be convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery, carnal knowledge of a female child under the age of ten years, or rape, the court may in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by such court, and that the sentenced person be placed under the charge of a parole or peace officer during the term of such suspension, upon such terms as the court may determine: PROVIDED, That as a condition to suspension of sentence, the court may require the convicted person to make such monetary payments, on such terms as the court deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question, and (3) to pay any fine imposed and not suspended and the court or other costs incurred in the prosecution of the

case, including reimbursement of the state for costs of extradition if return to this state by extradition was required. In no case shall a sentence be suspended under the provisions of this section unless the person if sentenced to confinement in a penal institution be placed under the charge of a parole officer, who is a duly appointed and acting officer of the institution to which the person is sentenced: PROVIDED, That persons convicted in justice court may be placed under supervision of a probation officer employed for that purpose by the board of county commissioners of the county wherein the court is located. If restitution to the victim has been ordered under subsection (2) of this section, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If restitution has not been made, the officer shall inform the prosecutor of that violation of the terms of the suspended sentence not less than three months prior to the termination of the suspended sentence.

Sec. 2. Section 4, chapter 227, Laws of 1957 as last amended by section 1, chapter 29, Laws of 1969 and RCW 9.95.210 are each amended to read as follows:

The court in granting probation, may suspend the imposing or the execution of the sentence and may direct that such suspension may continue for such period of time, not exceeding the maximum term of sentence, except as hereinafter set forth and upon such terms and conditions as it shall determine.

The court in the order granting probation and as a condition thereof, may in its discretion imprison the defendant in the county jail for a period not exceeding one year or may fine the defendant any sum not exceeding one thousand dollars plus the costs of the action, and may in connection with such probation impose both imprisonment in the county jail and fine and court costs. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question, and (3) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the supervisor of the division of probation and parole of the department of institutions or such officer as the supervisor may designate and as a condition of said probation to follow implicitly the instructions of the supervisor of probation and parole. If the probationer has been ordered to make restitution, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not

less than three months prior to the termination of the probation period. The supervisor of probation and parole with the approval of the director of institutions will promulgate rules and regulations for the conduct of such person during the term of his probation: PROVIDED, That for defendants found guilty in justice court, like functions as the supervisor of probation and parole performs in regard to probation may be performed by probation officers employed for that purpose by the board of county commissioners of the county wherein the court is located.

Sec. 3. Section 9A.20.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.20.030 are each amended to read as follows:

(1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. ~~((In such case))~~ It shall be the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime.

Passed the Senate February 20, 1979.

Passed the House March 1, 1979.

Approved by the Governor March 13, 1979.

Filed in Office of Secretary of State March 13, 1979.

CHAPTER 30

[Substitute Senate Bill No. 2252]

DEPARTMENT OF TRANSPORTATION—SUPPLEMENTAL APPROPRIATIONS

AN ACT Relating to transportation; making supplemental appropriations; amending section 17, chapter 151, Laws of 1977 ex. sess. (uncodified); amending section 2, chapter 333, Laws of 1977 ex. sess. (uncodified); and declaring an emergency.

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

NEW SECTION. Section 1. There is hereby appropriated from the motor vehicle fund to the department of transportation for the biennium ending June 30, 1979 \$4,850,000 (all state funds) or so much thereof