

**Chapter 10.01 RCW
GENERAL PROVISIONS**

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RCW 10.01.030 Pleadings—Forms abolished. All the forms of pleading in criminal actions heretofore existing, are abolished; and hereafter, the forms of pleading, and the rules by which the sufficiency of pleadings is to be determined, are those prescribed herein. [Code 1881 § 1002; 1873 p 224 § 185; 1869 p 240 § 180; RRS § 2022.]

RCW 10.01.040 Statutes—Repeal or amendment—Saving clause presumed. No offense committed and no penalty or forfeiture incurred previous to the time when any statutory provision shall be repealed, whether such repeal be express or implied, shall be affected by such repeal, unless a contrary intention is expressly declared in the repealing act, and no prosecution for any offense, or for the recovery of any penalty or forfeiture, pending at the time any statutory provision shall be repealed, whether such repeal be express or implied, shall be affected by such repeal, but the same shall proceed in all respects, as if such provision had not been repealed, unless a contrary intention is expressly declared in the repealing act. Whenever any criminal or penal statute shall be amended or repealed, all offenses committed or penalties or forfeitures incurred while it was in force shall be punished or enforced as if it were in force, notwithstanding such amendment or repeal, unless a contrary intention is expressly declared in the amendatory or repealing act, and every such amendatory or repealing statute shall be so construed as to save all criminal and penal proceedings, and proceedings to recover forfeitures, pending at the time of its enactment, unless a contrary intention is expressly declared therein. [1901 ex.s. c 6 § 1; RRS § 2006.]

RCW 10.01.050 Convictions—Necessary before punishment. No person charged with any offense against the law shall be punished for such offense, unless he or she shall have been duly and legally convicted thereof in a court having competent jurisdiction of the case and of the person. [2010 c 8 § 1001; Code 1881 § 770; 1854 p 76 § 6; RRS § 2118.]

RCW 10.01.060 Conviction—Requisites—Waiver of jury trial. No person informed against or indicted for a crime shall be convicted thereof, unless by admitting the truth of the charge in his or her plea, by confession in open court, or by the verdict of a jury, accepted and recorded by the court: PROVIDED HOWEVER, That except in capital cases, where the person informed against or indicted for a crime is represented by counsel, such person may, with the assent of the court, waive trial by jury and submit to trial by the court.

[2010 c 8 § 1002; 1951 c 52 § 1; 1909 c 249 § 57; 1891 c 28 § 91; Code 1881 § 767; 1873 p 180 § 3; 1869 p 198 § 3; 1859 p 105 § 3; 1854 p 76 § 3; RRS § 2309.]

Self-incriminating testimony: State Constitution Art. 1 § 9.

RCW 10.01.070 Entities—Amenable to criminal process—How. (1)

Whenever an indictment or information shall be filed in any superior court against an entity charging it with the commission of a crime, a summons shall be issued by the clerk of such court, signed by one of the judges thereof, commanding the sheriff forthwith to notify the accused thereof, and commanding it to appear before such court at such time as shall be specified in said summons. Such summons and a copy of the indictment or information shall be at once delivered by such clerk to said sheriff and by the sheriff forthwith served and returned in the manner provided for service of summons upon such entity in a civil action. Whenever a complaint against an entity, charging it with the commission of a crime, shall be made before any district or municipal judge, a like summons, signed by such judge, shall be issued, which, together with a copy of said complaint, shall be delivered to the sheriff at once and by the sheriff forthwith served as herein provided.

(2) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030. [2019 c 211 § 3; 1987 c 202 § 147; 1911 c 29 § 1; RRS § 2011-1.]

Short title—2019 c 211: See note following RCW 10.01.090.

Intent—1987 c 202: See note following RCW 2.04.190.

RCW 10.01.090 Entities—Judgment against. (1)

An entity convicted of an offense may be ordered to pay legal financial obligations, including restitution, crime victims' assessments, costs, fines, penalties, and other assessments authorized or required by law. Legal financial obligations imposed upon an entity shall be entered and docketed by the clerk, or district or municipal court as a judgment against the entity, and it shall be of the same force and effect and be enforced against such entity in the same manner as a judgment in a civil action. Notwithstanding any other provisions pertaining to legal financial obligations, all legal financial obligations imposed in a judgment against an entity under this section bear interest from the date of the judgment until payment at the rate applicable to civil judgments under RCW 4.56.110. When an entity is ordered to pay restitution, payments to the clerk must be distributed to restitution prior to all other obligations.

(2) Except as otherwise provided under subsection (1) of this section, payments on legal financial obligations must be collected and distributed according to the requirements under RCW 3.50.100, 3.62.020, 3.62.040, 9.92.070, 9.94A.760, 10.01.160, 10.01.170, 10.01.180, 10.46.190, 10.64.015, 10.73.160, 10.82.090, 35.20.220, and any other sections applicable to legal financial obligations imposed as a result of a criminal conviction.

(3) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030. [2019 c 211 § 4; 1987 c 202 § 148; 1911 c 29 § 3; RRS § 2011-3.]

Short title—2019 c 211: "This act shall be known and cited as the corporate crime act." [2019 c 211 § 1.]

Intent—1987 c 202: See note following RCW 2.04.190.

RCW 10.01.100 Entities—Fines. (1) When imposed on an entity for any criminal offense for which no special business fine is specified, a sentence to pay a fine may not exceed:

- (a) One million dollars for a class A felony;
- (b) Seven hundred fifty thousand dollars for a class B felony;
- (c) Five hundred thousand dollars for a class C felony;
- (d) Two hundred fifty thousand dollars for a gross misdemeanor;

and

- (e) Fifty thousand dollars for a misdemeanor.

(2) If a special fine for entities is expressly specified in the statute that defines an offense, the fine fixed must be within the limits specified in the statute.

(3) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030. [2019 c 211 § 5; 1925 ex.s. c 101 § 1; RRS § 2011-4.]

Short title—2019 c 211: See note following RCW 10.01.090.

RCW 10.01.120 Pardons—Reprieves—Commutations. Whenever a prisoner has been sentenced to death, the governor shall have power to commute such sentence to imprisonment for life at hard labor; and in all cases in which the governor is authorized to grant pardons or commute sentence of death, he or she may, upon the petition of the person convicted, commute a sentence or grant a pardon, upon such conditions, and with such restrictions, and under such limitations as he or she may think proper; and he or she may issue his or her warrant to all proper officers to carry into effect such pardon or commutation, which warrant shall be obeyed and executed, instead of the sentence, if any, which was originally given. The governor may also, on good cause shown, grant respites or reprieves from time to time as he or she may think proper. [2010 c 8 § 1003; Code 1881 § 1136; 1854 p 128 § 174; RRS § 2223.]

Governor's powers: State Constitution Art. 3 §§ 9, 11.

Record of pardons, etc., governor to keep: RCW 43.06.020.

RCW 10.01.130 Witnesses' fees. No fees shall be allowed to witnesses in criminal causes unless they shall have reported their attendance at the close of each day's session to the clerk in attendance thereon. [1895 c 10 § 1; RRS § 498, part. FORMER PART OF SECTION: 1895 c 10 § 2; RRS § 498, part, now codified as RCW 10.01.140.]

Rules of court: Cf. CrR 6.12.

Witness fees: Chapters 2.40, 12.16 RCW.

RCW 10.01.140 Mileage allowance—Jurors—Witnesses. No allowance of mileage shall be made to a juror or witness who has not verified his or her claim of mileage under oath before the clerk of the court on which he or she is in attendance. [2010 c 8 § 1004; 1895 c 10 § 2; RRS § 498, part. Formerly RCW 10.01.130, part.]

RCW 10.01.150 Charges arising from official acts of state officers or employees—Defense by attorney general. Whenever a state officer or employee is charged with a criminal offense arising out of the performance of an official act which was fully in conformity with established written rules, policies, and guidelines of the state or state agency, the employing agency may request the attorney general to defend the officer or employee. If the agency finds, and the attorney general concurs, that the officer's or employee's conduct was fully in accordance with established written rules, policies, and guidelines of the state or a state agency and the act performed was within the scope of employment, then the request shall be granted and the costs of defense shall be paid by the requesting agency: PROVIDED, HOWEVER, If the agency head is the person charged, then approval must be obtained from both the attorney general and the state auditor. If the court finds that the officer or employee was performing an official act, or was within the scope of employment, and that his or her actions were in conformity with the established rules, regulations, policies, and guidelines of the state and the state agency, the cost of any monetary fine assessed shall be paid from the liability account. [2010 c 8 § 1005; 1999 c 163 § 6; 1975 1st ex.s. c 144 § 1.]

Effective date—1999 c 163: See note following RCW 4.92.130.

RCW 10.01.160 Costs—What constitutes—Payment by defendant—Procedure—Remission—Medical or mental health treatment or services. (Effective until January 1, 2023.) (1) Except as provided in subsection (3) of this section, the court may require a defendant to pay costs. Costs may be imposed only upon a convicted defendant, except for costs imposed upon a defendant's entry into a deferred prosecution program, costs imposed upon a defendant for pretrial supervision, or costs imposed upon a defendant for preparing and serving a warrant for failure to appear.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW or pretrial supervision. 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. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution may not exceed two hundred fifty dollars. Costs for administering a

pretrial supervision other than a pretrial electronic alcohol monitoring program, drug monitoring program, or 24/7 sobriety program may not exceed one hundred fifty dollars. Costs for preparing and serving a warrant for failure to appear may not exceed one hundred dollars. Costs of incarceration imposed on a defendant convicted of a misdemeanor or a gross misdemeanor may not exceed the actual cost of incarceration. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. Costs imposed constitute a judgment against a defendant and survive a dismissal of the underlying action against the defendant. However, if the defendant is acquitted on the underlying action, the costs for preparing and serving a warrant for failure to appear do not survive the acquittal, and the judgment that such costs would otherwise constitute shall be vacated.

(3) The court shall not order a defendant to pay costs if the defendant at the time of sentencing is indigent as defined in RCW 10.101.010(3) (a) through (c). In determining the amount and method of payment of costs for defendants who are not indigent as defined in RCW 10.101.010(3) (a) through (c), 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 ordered to pay costs and who is not in contumacious default in the payment thereof may at any time after release from total confinement petition the sentencing court 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 the defendant's immediate family, the court may remit all or part of the amount due in costs, modify the method of payment under RCW 10.01.170, or convert the unpaid costs to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. Manifest hardship exists where the defendant is indigent as defined in RCW 10.101.010(3) (a) through (c).

(5) Except for direct costs relating to evaluating and reporting to the court, prosecutor, or defense counsel regarding a defendant's competency to stand trial as provided in RCW 10.77.060, this section shall not apply to costs related to medical or mental health treatment or services a defendant receives while in custody of the secretary of the department of social and health services or other governmental units. This section shall not prevent the secretary of the department of social and health services or other governmental units from imposing liability and seeking reimbursement from a defendant committed to an appropriate facility as provided in RCW 10.77.084 while criminal proceedings are stayed. This section shall also not prevent governmental units from imposing liability on defendants for costs related to providing medical or mental health treatment while the defendant is in the governmental unit's custody. Medical or mental health treatment and services a defendant receives at a state hospital or other facility are not a cost of prosecution and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B RCW, and

any other applicable statute. [2018 c 269 § 6; 2015 3rd sp.s. c 35 § 1; 2010 c 54 § 1; 2008 c 318 § 2; 2007 c 367 § 3; 2005 c 263 § 2; 1995 c 221 § 1; 1994 c 192 § 1; 1991 c 247 § 4; 1987 c 363 § 1; 1985 c 389 § 1; 1975-'76 2nd ex.s. c 96 § 1.]

Construction—2018 c 269: See note following RCW 10.82.090.

Findings—Intent—2008 c 318: "The legislature finds that because of the decision in *Utter v. DSHS*, 165 P.3d 399 (Wash. 2007), there is unintended ambiguity about the authority of the secretary of the department of social and health services under the criminal procedure act to seek reimbursement from defendants under RCW 10.77.250 who are committed for competency evaluation and mental health treatment under RCW 10.77.060 and 10.77.084, and the general provision prohibiting a criminal defendant from being charged for prosecution related costs prior to conviction provided in RCW 10.01.160. Mental health evaluation and treatment, and other medical treatment relate entirely to the medically necessary care that defendants receive at state hospitals and other facilities. The legislature intended for treatment costs to be the responsibility of the defendant's insurers and ultimately the defendant based on their ability to pay, and it is permissible under chapters 10.77, 70.48, and 43.20B RCW for the state and other governmental units to assess financial liability on defendants who become patients and receive medical and mental health care. The legislature further finds that it intended that a court order staying criminal proceedings under RCW 10.77.084, and committing a defendant to the custody of the secretary of the department of social and health services for placement in an appropriate facility involve costs payable by the defendant, because the commitment primarily and directly benefits the defendant through treatment of their medical and mental health conditions. The legislature did not intend for medical and mental health services provided to a defendant in the custody of a governmental unit, and the associated costs, to be costs related to the prosecution of the defendant. Thus, if a court orders a stay of the criminal proceeding under RCW 10.77.084 and orders commitment to the custody of the secretary, or if at any time a defendant receives other medical care while in custody of a governmental unit, but prior to conviction, the costs associated with such care shall be the responsibility of the defendant and the defendant's insurers as provided in chapters 10.77, 70.48, and 43.20B RCW. The intent of the legislature is to clarify this reimbursement requirement, and the purpose of this act is to make retroactive, remedial, curative, and technical amendments in order to resolve any ambiguity about the legislature's intent in enacting these chapters." [2008 c 318 § 1.]

Effective date—2008 c 318: "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 takes effect immediately [April 1, 2008]." [2008 c 318 § 3.]

Commitment for failure to pay fine and costs: RCW 10.70.010, 10.82.030.

Defendant liable for costs: RCW 10.64.015.

RCW 10.01.160 Costs—What constitutes—Payment by defendant—Procedure—Remission—Medical or mental health treatment or services. (Effective January 1, 2023.) (1) Except as provided in subsection (3) of this section, the court may require a defendant to pay costs. Costs may be imposed only upon a convicted defendant, except for costs imposed upon a defendant's entry into a deferred prosecution program, costs imposed upon a defendant for pretrial supervision, or costs imposed upon a defendant for preparing and serving a warrant for failure to appear.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW or pretrial supervision. 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. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution may not exceed \$250. Costs for administering a pretrial supervision other than a pretrial electronic alcohol monitoring program, drug monitoring program, or 24/7 sobriety program may not exceed \$150. Costs for preparing and serving a warrant for failure to appear may not exceed \$100. Costs of incarceration imposed on a defendant convicted of a misdemeanor or a gross misdemeanor may not exceed the actual cost of incarceration. In no case may the court require the offender to pay more than \$100 per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. Costs imposed constitute a judgment against a defendant and survive a dismissal of the underlying action against the defendant. However, if the defendant is acquitted on the underlying action, the costs for preparing and serving a warrant for failure to appear do not survive the acquittal, and the judgment that such costs would otherwise constitute shall be vacated.

(3) The court shall not order a defendant to pay costs if the defendant at the time of sentencing is indigent. In determining the amount and method of payment of costs for defendants who are not indigent, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose. For the purposes of this section, a defendant is "indigent" if the defendant: (a) Meets the criteria defined in RCW 10.101.010(3) (a) through (c); (b) is homeless or mentally ill as defined in RCW 71.24.025; (c) has household income above 125 percent of the federal poverty guidelines and has recurring basic living costs, as defined in RCW 10.101.010, that render the defendant without the financial ability to pay; or (d) has other compelling circumstances that exist that demonstrate an inability to pay.

(4) A defendant who has been ordered to pay costs and who has not willfully failed to pay the obligation, as described in RCW 9.94A.6333, 9.94B.040, and 10.01.180, may at any time petition the sentencing court 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 the defendant's immediate family, the court may remit all or part of the amount due in costs, modify the method of payment under RCW 10.01.170, or convert the unpaid costs to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. Manifest hardship exists where the defendant is indigent as defined in subsection (3) of this section.

(5) Except for direct costs relating to evaluating and reporting to the court, prosecutor, or defense counsel regarding a defendant's competency to stand trial as provided in RCW 10.77.060, this section shall not apply to costs related to medical or mental health treatment or services a defendant receives while in custody of the secretary of the department of social and health services or other governmental units. This section shall not prevent the secretary of the department of social and health services or other governmental units from imposing liability and seeking reimbursement from a defendant committed to an appropriate facility as provided in RCW 10.77.084 while criminal proceedings are stayed. This section shall also not prevent governmental units from imposing liability on defendants for costs related to providing medical or mental health treatment while the defendant is in the governmental unit's custody. Medical or mental health treatment and services a defendant receives at a state hospital or other facility are not a cost of prosecution and shall be recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B RCW, and any other applicable statute. [2022 c 260 § 9; 2018 c 269 § 6; 2015 3rd sp.s. c 35 § 1; 2010 c 54 § 1; 2008 c 318 § 2; 2007 c 367 § 3; 2005 c 263 § 2; 1995 c 221 § 1; 1994 c 192 § 1; 1991 c 247 § 4; 1987 c 363 § 1; 1985 c 389 § 1; 1975-'76 2nd ex.s. c 96 § 1.]

Construction—Effective date—2022 c 260: See notes following RCW 3.66.120.

Construction—2018 c 269: See note following RCW 10.82.090.

Findings—Intent—2008 c 318: "The legislature finds that because of the decision in *Utter v. DSHS*, 165 P.3d 399 (Wash. 2007), there is unintended ambiguity about the authority of the secretary of the department of social and health services under the criminal procedure act to seek reimbursement from defendants under RCW 10.77.250 who are committed for competency evaluation and mental health treatment under RCW 10.77.060 and 10.77.084, and the general provision prohibiting a criminal defendant from being charged for prosecution related costs prior to conviction provided in RCW 10.01.160. Mental health evaluation and treatment, and other medical treatment relate entirely to the medically necessary care that defendants receive at state hospitals and other facilities. The legislature intended for treatment costs to be the responsibility of the defendant's insurers and ultimately the defendant based on their ability to pay, and it is permissible under chapters 10.77, 70.48, and 43.20B RCW for the state

and other governmental units to assess financial liability on defendants who become patients and receive medical and mental health care. The legislature further finds that it intended that a court order staying criminal proceedings under RCW 10.77.084, and committing a defendant to the custody of the secretary of the department of social and health services for placement in an appropriate facility involve costs payable by the defendant, because the commitment primarily and directly benefits the defendant through treatment of their medical and mental health conditions. The legislature did not intend for medical and mental health services provided to a defendant in the custody of a governmental unit, and the associated costs, to be costs related to the prosecution of the defendant. Thus, if a court orders a stay of the criminal proceeding under RCW 10.77.084 and orders commitment to the custody of the secretary, or if at any time a defendant receives other medical care while in custody of a governmental unit, but prior to conviction, the costs associated with such care shall be the responsibility of the defendant and the defendant's insurers as provided in chapters 10.77, 70.48, and 43.20B RCW. The intent of the legislature is to clarify this reimbursement requirement, and the purpose of this act is to make retroactive, remedial, curative, and technical amendments in order to resolve any ambiguity about the legislature's intent in enacting these chapters." [2008 c 318 § 1.]

Effective date—2008 c 318: "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 takes effect immediately [April 1, 2008]." [2008 c 318 § 3.]

Commitment for failure to pay fine and costs: RCW 10.70.010, 10.82.030.

Defendant liable for costs: RCW 10.64.015.

Fine and costs—Collection and disposition: Chapter 10.82 RCW.

RCW 10.01.170 Fine or costs—Payment within specified time or installments—Payment priority order. (Effective until January 1, 2023.) (1) When a defendant is sentenced to pay fines, penalties, assessments, fees, restitution, or costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If the court finds that the defendant is indigent as defined in RCW 10.101.010(3) (a) through (c), the court shall 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.

(2) An offender's monthly payment shall be applied in the following order of priority until satisfied:

(a) First, proportionally to restitution to victims that have not been fully compensated from other sources;

(b) Second, proportionally to restitution to insurance or other sources with respect to a loss that has provided compensation to victims;

(c) Third, proportionally to crime victims' assessments; and

(d) Fourth, proportionally to costs, fines, and other assessments required by law. [2018 c 269 § 7; 1975-'76 2nd ex.s. c 96 § 2.]

Construction—2018 c 269: See note following RCW 10.82.090.

Payment of fine and costs in installments: RCW 9.92.070.

RCW 10.01.170 Fine or costs—Payment within specified time or installments—Payment priority order. (Effective January 1, 2023.)

(1) When a defendant is sentenced to pay fines, penalties, assessments, fees, restitution, or costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If the court finds that the defendant is indigent as defined in RCW 10.01.160(3), the court shall 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.

(2) An offender's monthly payment shall be applied in the following order of priority until satisfied:

(a) First, proportionally to restitution to victims that have not been fully compensated from other sources;

(b) Second, proportionally to restitution to insurance or other sources with respect to a loss that has provided compensation to victims;

(c) Third, proportionally to crime victims' assessments; and

(d) Fourth, proportionally to costs, fines, and other assessments required by law. [2022 c 260 § 19; 2018 c 269 § 7; 1975-'76 2nd ex.s. c 96 § 2.]

Construction—Effective date—2022 c 260: See notes following RCW 3.66.120.

Construction—2018 c 269: See note following RCW 10.82.090.

Payment of fine and costs in installments: RCW 9.92.070.

RCW 10.01.180 Fine or costs—Default in payment—Contempt of court—Enforcement, collection procedures. (Effective until January 1, 2023.)

(1) A defendant sentenced to pay any fine, penalty, assessment, fee, or costs who willfully defaults in the payment thereof or of any installment is in contempt of court as provided in chapter 7.21 RCW. The court may issue a warrant of arrest for his or her appearance.

(2) When any fine, penalty, assessment, fee, 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 obligation from those assets, and his or her failure to do so may be held to be contempt.

(3) (a) The court shall not sanction a defendant for contempt based on failure to pay fines, penalties, assessments, fees, or costs unless the court finds, after a hearing and on the record, that the failure to pay is willful. A failure to pay is willful if the defendant has the current ability to pay but refuses to do so.

(b) In determining whether the defendant has the current ability to pay, the court shall inquire into and consider: (i) The defendant's income and assets; (ii) the defendant's basic living costs as defined by RCW 10.101.010 and other liabilities including child support and other legal financial obligations; and (iii) the defendant's bona fide efforts to acquire additional resources. A defendant who is indigent as defined by RCW 10.101.010(3) (a) through (c) is presumed to lack the current ability to pay.

(c) If the court determines that the defendant is homeless or a person who is mentally ill, as defined in RCW 71.24.025, failure to pay a legal financial obligation is not willful contempt and shall not subject the defendant to penalties.

(4) If a term of imprisonment for contempt for nonpayment of any fine, penalty, assessment, fee, 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 amount ordered, thirty days if the amount ordered 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 any fine, penalty, assessment, fee, 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 any fine, penalty, assessment, fee, or costs is not willful contempt, the court may, and if the defendant is indigent as defined in RCW 10.101.010(3) (a) through (c), the court shall enter an order: (a) Allowing the defendant additional time for payment; (b) reducing the amount thereof or of each installment; (c) revoking the fine, penalty, assessment, fee, or costs or the unpaid portion thereof in whole or in part; or (d) converting the unpaid fine, penalty, assessment, fee, or costs to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. The crime victim penalty assessment under RCW 7.68.035 may not be reduced, revoked, or converted to community restitution hours.

(6) A default in the payment of any fine, penalty, assessment, fee, 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 any fine, penalty, assessment, fee, or costs shall not discharge a defendant committed to imprisonment for contempt until the amount has actually been collected. [2018 c 269 § 8; 2010 c 8 § 1006; 1989 c 373 § 13; 1975-'76 2nd ex.s. c 96 § 3.]

Construction—2018 c 269: See note following RCW 10.82.090.

Fine and costs—Collection procedure, commitment for failure to pay, execution against defendant's property: Chapter 10.82 RCW.

RCW 10.01.180 Fine or costs—Default in payment—Contempt of court—Enforcement, collection procedures. (Effective January 1, 2023.) (1) A defendant sentenced to pay any fine, penalty, assessment, fee, or costs who willfully defaults in the payment thereof or of any installment is in contempt of court as provided in

chapter 7.21 RCW. The court may issue a warrant of arrest for his or her appearance.

(2) When any fine, penalty, assessment, fee, 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 obligation from those assets, and his or her failure to do so may be held to be contempt.

(3) (a) The court shall not sanction a defendant for contempt based on failure to pay fines, penalties, assessments, fees, or costs unless the court finds, after a hearing and on the record, that the failure to pay is willful. A failure to pay is willful if the defendant has the current ability to pay but refuses to do so.

(b) In determining whether the defendant has the current ability to pay, the court shall inquire into and consider: (i) The defendant's income and assets; (ii) the defendant's basic living costs as defined by RCW 10.101.010 and other liabilities including child support and other legal financial obligations; and (iii) the defendant's bona fide efforts to acquire additional resources. A defendant who is indigent as defined by [in] RCW 10.01.160(3) is presumed to lack the current ability to pay.

(c) If the court determines that the defendant is homeless or a person who is mentally ill, as defined in RCW 71.24.025, failure to pay a legal financial obligation is not willful contempt and shall not subject the defendant to penalties.

(4) If a term of imprisonment for contempt for nonpayment of any fine, penalty, assessment, fee, or costs is ordered, the term of imprisonment shall be set forth in the commitment order, and shall not exceed one day for each \$25 of the amount ordered, 30 days if the amount ordered 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 any fine, penalty, assessment, fee, 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 any fine, penalty, assessment, fee, or costs is not willful contempt, the court may, and if the defendant is indigent as defined in RCW 10.01.160(3), the court shall enter an order: (a) Allowing the defendant additional time for payment; (b) reducing the amount thereof or of each installment; (c) revoking the fine, penalty, assessment, fee, or costs or the unpaid portion thereof in whole or in part; or (d) converting the unpaid fine, penalty, assessment, fee, or costs to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. The crime victim penalty assessment under RCW 7.68.035 may not be reduced, revoked, or converted to community restitution hours.

(6) A default in the payment of any fine, penalty, assessment, fee, 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 any fine, penalty, assessment, fee, or costs shall not discharge a defendant committed to imprisonment for contempt until the amount has actually been collected. [2022 c 260 § 15; 2018 c 269 § 8; 2010 c 8 § 1006; 1989 c 373 § 13; 1975-'76 2nd ex.s. c 96 § 3.]

Construction—Effective date—2022 c 260: See notes following RCW 3.66.120.

Construction—2018 c 269: See note following RCW 10.82.090.

Fine and costs—Collection procedure, commitment for failure to pay, execution against defendant's property: Chapter 10.82 RCW.

RCW 10.01.185 Remission of fines. (Effective January 1, 2023.)

A defendant who has been ordered to pay fines and who has not willfully failed to pay the obligation, as described in RCW 9.94A.6333, 9.94B.040, and 10.01.180, may at any time petition the sentencing court for remission of the payment of fines 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 the defendant's immediate family, the court may remit all or part of the amount due in fines, modify the method of payment under RCW 10.01.170, or convert the unpaid amounts to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. Manifest hardship exists where the defendant is indigent as defined in RCW 10.01.160(3). [2022 c 260 § 8.]

Construction—Effective date—2022 c 260: See notes following RCW 3.66.120.

RCW 10.01.190 Prosecutorial powers of attorney general. In any criminal proceeding instituted or conducted by the attorney general, the attorney general and assistants are deemed to be prosecuting attorneys and have all prosecutorial powers vested in prosecuting attorneys of the state of Washington by statute or court rule. [1981 c 335 § 4.]

Purpose—1981 c 335: See RCW 43.10.230.

RCW 10.01.200 Registration of sex offenders and kidnapping offenders—Notice to defendants. The court shall provide written notification to any defendant charged with a sex offense or kidnapping offense of the registration requirements of RCW 9A.44.130. Such notice shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant. [1997 c 113 § 5; 1990 c 3 § 404.]

Reviser's note: The definitions in RCW 9A.44.128 apply to this section.

Findings—1997 c 113: See note following RCW 4.24.550.

Sex offense and kidnapping offense defined: RCW 9A.44.128.

RCW 10.01.210 Offender notification and warning. Any and all law enforcement agencies and personnel, criminal justice attorneys,

sentencing judges, and state and local correctional facilities and personnel may, but are not required to, give any and all offenders either written or oral notice, or both, of the sanctions imposed and criminal justice changes regarding armed offenders, including but not limited to the subjects of:

(1) Felony crimes involving any deadly weapon special verdict under *RCW 9.94A.602;

(2) Any and all deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, as well as any federal firearm, ammunition, or other deadly weapon enhancements;

(3) Any and all felony crimes requiring the possession, display, or use of any deadly weapon as well as the many increased penalties for these crimes including the creation of theft of a firearm and possessing a stolen firearm;

(4) New prosecuting standards established for filing charges for all crimes involving any deadly weapons;

(5) Removal of good time for any and all deadly weapon enhancements; and

(6) Providing the death penalty for those who commit first degree murder: (a) To join, maintain, or advance membership in an identifiable group; (b) as part of a drive-by shooting; or (c) to avoid prosecution as a persistent offender as defined in RCW 9.94A.030. [2002 c 290 § 23; 1995 c 129 § 18 (Initiative Measure No. 159).]

***Reviser's note:** RCW 9.94A.602 was recodified as RCW 9.94A.825 pursuant to 2009 c 28 § 41.

Effective date—2002 c 290 §§ 7-11 and 14-23: See note following RCW 9.94A.515.

Intent—2002 c 290: See note following RCW 9.94A.517.

Findings and intent—Short title—Severability—Captions not law—1995 c 129: See notes following RCW 9.94A.510.

RCW 10.01.220 City attorney, county prosecutor, or other prosecuting authority—Filing a criminal charge—Contribution, donation, payment. A city attorney, county prosecutor, or other prosecuting authority may not dismiss, amend, or agree not to file a criminal charge in exchange for a contribution, donation, or payment to any person, corporation, or organization. This does not prohibit:

(1) Contribution, donation, or payment to any specific fund authorized by state statute;

(2) The collection of costs associated with actual supervision, treatment, or collection of restitution under agreements to defer or divert; or

(3) Dismissal following payment that is authorized by any other statute. [2007 c 367 § 1.]

RCW 10.01.230 Victim impact panel registry—Panel minimum standards. (1) The Washington traffic safety commission may develop and maintain a registry of qualified victim impact panels. When imposing a requirement that an offender attend a victim impact panel under RCW 46.61.5152, the court may refer the offender to a victim

impact panel that is listed in the registry. The Washington traffic safety commission may consult with victim impact panel organizations to develop and maintain a registry.

(2) To be listed on the registry, the victim impact panel must meet the following minimum standards:

(a) The victim impact panel must address the effects of driving while impaired on individuals and families and address alternatives to drinking and driving and drug use and driving;

(b) The victim impact panel shall have at least two different speakers, one of whom is a victim survivor of an impaired driving crash, to present their stories in person. A victim survivor may be the panel facilitator. The victim impact panel should be a minimum of sixty minutes of presentation, not including registration and administration time;

(c) The victim impact panel shall have policies and procedures to recruit, screen, train, and provide feedback and ongoing support to the panelists. The panel shall take reasonable steps to verify the authenticity of each panelist's story;

(d) Pursuant to (b) of this subsection, the victim impact panel shall use in-person speakers for each presentation for a minimum of sixty minutes of presentation. The victim impact panel may supplement the in-person presentations with prerecorded videos, but in no case shall the videos shown exceed fifteen minutes of presentation;

(e) The victim impact panel shall charge a reasonable fee to all persons required to attend, unless otherwise ordered by the court;

(f) The victim impact panel shall have a policy to prohibit admittance of anyone under the influence of alcohol or drugs, or anyone whose actions or behavior are otherwise inappropriate. The victim impact panel may institute additional admission requirements;

(g) The victim impact panel shall maintain attendance records for at least five years;

(h) The victim impact panel shall make reasonable efforts to use a facility that meets standards established by the Americans with disabilities act;

(i) The victim impact panel may provide referral information to other community services; and

(j) The victim impact panel shall have a designated facilitator who is responsible for the compliance with these minimum standards and who is responsible for maintaining appropriate records and communication with the referring courts and probationary departments regarding attendance or nonattendance. [2016 c 203 § 10; 2011 c 293 § 15.]

RCW 10.01.240 Domestic violence proceedings—Duty to specify whether intimate partners or family or household members. Whenever a prosecutor, or the attorney general or assistants acting pursuant to RCW 10.01.190, institutes or conducts a criminal proceeding involving domestic violence as defined in RCW 10.99.020, the prosecutor, or attorney general or assistants, shall specify whether the victim and defendant are intimate partners or family or household members within the meaning of RCW 7.105.010. [2021 c 215 § 114; 2019 c 263 § 202.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Findings—Intent—2019 c 263 §§ 202-803: "The legislature recognizes that domestic violence treatment has been the most common, and sometimes only, legal response in domestic violence cases. There is a growing concern about the "one size fits all" approach for domestic violence misdemeanors, felonies, and other cases. In 2012, the legislature directed the Washington state institute for public policy to update its analysis of the scientific literature on domestic violence treatment. The institute found traditional domestic violence treatment to be ineffective. Treatment needs to be differentiated and grounded in science, risk, and long-term evaluation. The institute's findings coincided with a wave of federal, state, and local reports highlighting concerns with the efficacy of traditional domestic violence treatment. A new approach was needed to reduce recidivism by domestic violence offenders, provide both victims and offenders with meaningful answers about what works, and close critical safety gaps. Subsequently, the legislature directed the gender and justice commission to establish work groups and make recommendations to improve domestic violence treatment and risk assessments. The work group recommended establishing sentencing alternatives for domestic violence offenders, integrated systems response, and domestic violence risk assessments. During this time, the department of social and health services repealed the administrative codes for domestic violence treatment, and issued new codes grounded in a differentiated approach and evidence-based practice. There is no easy answer to what works to reduce domestic violence recidivism, and offenders often present with co-occurring substance abuse and mental health issues, but new administrative codes and work group recommendations reflect the best available evidence in how best to respond and treat domestic violence criminal offenders.

Improving rehabilitation and treatment of domestic violence offenders, and those offenders with co-occurring substance and mental health issues, is critical, given how often practitioners and courts use treatment as the primary, and sometimes only, intervention for domestic violence. Given the pervasiveness of domestic violence and because of the link between domestic violence and many community issues including violent recidivism, victims and offenders are owed effective treatment and courts need better tools. State studies have found domestic violence crimes to be the most predictive of future violent crime.

The legislature intends to modify sentencing alternatives and other sentencing practices to require use of a validated risk assessment tool and domestic violence treatment certified under the Washington Administrative Code. These new practices should be consistently used when criminal conduct is based on domestic violence behavioral problems." [2019 c 263 § 101.]

Intent—Definition of domestic violence—2019 c 263 §§ 202-205: "The legislature intends to distinguish between intimate partner violence and other categories of domestic violence to facilitate discrete data analysis regarding domestic violence by judicial, criminal justice, and advocacy entities. The legislature does not intend for these modifications to definitions to substantively change the prosecution of, or penalties for, domestic violence, or the remedies available to potential petitioners under the current statutory scheme." [2019 c 263 § 201.]