
HOUSE BILL 1521

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By Representatives Lovick, Barlean, O'Brien, Ballasiotes, Edwards, D. Schmidt, Haigh, Delvin, Santos, Regala, Ericksen, Lantz, Sullivan, Reardon, Miloscia and Thomas

Read first time 01/27/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to failure to appear and failure to pay financial
2 obligations in courts of limited jurisdiction; amending RCW 7.80.070,
3 7.80.080, and 7.84.060; adding a new section to chapter 3.02 RCW; and
4 creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** Having considered the effect of current
7 state law that authorizes the filing of separate charges for failure to
8 appear for a court hearing and the difficulty courts have in obtaining
9 court-imposed financial obligations from probationers, the legislature
10 finds:

11 (1) A significant number of persons booked into jail have failed to
12 pay court-imposed financial obligations;

13 (2) Persons arrested on warrant for failure to pay financial
14 obligations are often ordered to serve jail time in lieu of paying
15 those obligations, but that result serves less as a deterrent than it
16 does as a convenient way for violators to satisfy financial obligations
17 at the expense of the system, which not only goes unpaid for the moneys
18 owed, but also must pay additionally to house those who are ordered to
19 serve out financial obligations;

1 (3) Under RCW 7.84.060, failure to respond to a notice of
2 infraction as promised to appear and failure to appear at a requested
3 hearing on an infraction may be charged as a misdemeanor, but that
4 scheme often results in persons' accruing a series of failure to appear
5 charges without any resolution that benefits the court;

6 (4) Failure to appear charges tend to tax the limited resources of
7 courts of limited jurisdiction, prosecutors, police, and corrections
8 departments;

9 (5) Under RCW 3.02.045, courts of limited jurisdiction may use
10 collection agencies to collect unpaid court-imposed financial
11 obligations on infractions and criminal cases;

12 (6) Significant savings of resources may be achieved when persons
13 fail to appear for hearings on infractions, or when probationers fail
14 to pay fines in cases not involving violence or driving under the
15 influence, if courts merely impose maximum fines and forward the
16 obligations to collection agencies.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 3.02 RCW
18 to read as follows:

19 The power of courts of limited jurisdiction, under RCW 2.28.010(4),
20 to compel obedience to judgments, decrees, orders, and process, are
21 limited as follows:

22 (1) A court of limited jurisdiction shall not allow a probationer
23 to serve jail time in lieu of a financial obligation.

24 (2) A court of limited jurisdiction dealing with a probationer who
25 has failed to pay financial obligations, in a case not involving
26 violence or driving under the influence, shall impose the maximum fine
27 and turn the matter over to a collection agency as provided under RCW
28 3.02.045.

29 **Sec. 3.** RCW 7.80.070 and 1987 c 456 s 15 are each amended to read
30 as follows:

31 (1) A notice of civil infraction represents a determination that a
32 civil infraction has been committed. The determination is final unless
33 contested as provided in this chapter.

34 (2) The form for the notice of civil infraction shall be prescribed
35 by rule of the supreme court and shall include the following:

36 (a) A statement that the notice represents a determination that a
37 civil infraction has been committed by the person named in the notice

1 and that the determination is final unless contested as provided in
2 this chapter;

3 (b) A statement that a civil infraction is a noncriminal offense
4 for which imprisonment may not be imposed as a sanction;

5 (c) A statement of the specific civil infraction for which the
6 notice was issued;

7 (d) A statement of the monetary penalty established for the civil
8 infraction;

9 (e) A statement of the options provided in this chapter for
10 responding to the notice and the procedures necessary to exercise these
11 options;

12 (f) A statement that at any hearing to contest the determination
13 the state has the burden of proving, by a preponderance of the
14 evidence, that the civil infraction was committed and that the person
15 may subpoena witnesses including the enforcement officer who issued the
16 notice of civil infraction;

17 (g) A statement that at any hearing requested for the purpose of
18 explaining mitigating circumstances surrounding the commission of the
19 civil infraction, the person will be deemed to have committed the civil
20 infraction and may not subpoena witnesses;

21 (h) A statement that the person must respond to the notice as
22 provided in this chapter within fifteen days;

23 (i) A statement that failure to respond to the notice or a failure
24 to appear at a hearing requested for the purpose of contesting the
25 determination or for the purpose of explaining mitigating circumstances
26 will result in a default judgment against the person in the amount of
27 the penalty and that this failure may be referred to the prosecuting
28 attorney for criminal prosecution for failure to respond or appear;

29 (j) A statement, which the person shall sign, that the person
30 promises to respond to the notice of civil infraction in one of the
31 ways provided in this chapter((÷

32 ~~(k) A statement that failure to respond to a notice of civil~~
33 ~~infraction as promised or to appear at a requested hearing is a~~
34 ~~misdemeanor and may be punished by a fine or imprisonment in jail)).~~

35 **Sec. 4.** RCW 7.80.080 and 1987 c 456 s 16 are each amended to read
36 as follows:

1 (1) Any person who receives a notice of civil infraction shall
2 respond to such notice as provided in this section within fifteen days
3 of the date of the notice.

4 (2) If the person determined to have committed the civil infraction
5 does not contest the determination, the person shall respond by
6 completing the appropriate portion of the notice of civil infraction
7 and submitting it, either by mail or in person, to the court specified
8 on the notice. A check or money order in the amount of the penalty
9 prescribed for the civil infraction must be submitted with the
10 response. The clerk of a court may accept cash in payment for an
11 infraction. When a response which does not contest the determination
12 is received, an appropriate order shall be entered in the court's
13 records.

14 (3) If the person determined to have committed the civil infraction
15 wishes to contest the determination, the person shall respond by
16 completing the portion of the notice of civil infraction requesting a
17 hearing and submitting it, either by mail or in person, to the court
18 specified on the notice. The court shall notify the person in writing
19 of the time, place, and date of the hearing, and that date shall not be
20 earlier than seven days nor more than ninety days from the date of the
21 notice of hearing, except by agreement.

22 (4) If the person determined to have committed the civil infraction
23 does not contest the determination but wishes to explain mitigating
24 circumstances surrounding the infraction, the person shall respond by
25 completing the portion of the notice of civil infraction requesting a
26 hearing for that purpose and submitting it, either by mail or in
27 person, to the court specified on the notice. The court shall notify
28 the person in writing of the time, place, and date of the hearing, and
29 that date shall not be earlier than seven days nor more than ninety
30 days from the date of the notice of hearing, except by agreement.

31 (5) The court shall enter a default judgment assessing the monetary
32 penalty prescribed for the civil infraction ~~((and may notify the
33 prosecuting attorney of the failure to respond to the notice of civil
34 infraction or to appear at a requested hearing if any person issued a
35 notice of civil infraction:~~

36 ~~(a) Fails to respond to the notice of civil infraction as provided
37 in subsection (2) of this section; or~~

38 ~~(b) Fails to appear at a hearing requested pursuant to subsection
39 (3) or (4) of this section)).~~

1 **Sec. 5.** RCW 7.84.060 and 1987 c 380 s 6 are each amended to read
2 as follows:

3 (1) Any person who receives a notice of infraction shall respond to
4 such notice as provided in this section within fifteen days of the date
5 of the notice.

6 (2) If the person determined to have committed the infraction does
7 not contest the determination, the person shall respond by completing
8 the appropriate portion of the notice of infraction and submitting it,
9 either by mail or in person, to the court specified on the notice. A
10 check or money order in the amount of the penalty prescribed for the
11 infraction shall be submitted with the response. When a response which
12 does not contest the determination is received, an appropriate order
13 shall be entered in the court's records.

14 (3) If the person determined to have committed the infraction
15 wishes to contest the determination, the person shall respond by
16 completing the portion of the notice of infraction requesting a hearing
17 and submitting it, either by mail or in person, to the court specified
18 on the notice. The court shall notify the person in writing of the
19 time, place, and date of the hearing, and that date shall not be sooner
20 than seven days from the date of the notice, except by agreement.

21 (4) If the person determined to have committed the infraction does
22 not contest the determination but wishes to explain mitigating
23 circumstances surrounding the infraction, the person shall respond by
24 completing the portion of the notice of infraction requesting a hearing
25 for that purpose and submitting it, either by mail or in person, to the
26 court specified on the notice. The court shall notify the person in
27 writing of the time, place, and date of the hearing.

28 (5) If any person issued a notice of infraction: (a) Fails to
29 respond to the notice of infraction as provided in subsection (2) of
30 this section, or (b) fails to appear at a hearing requested pursuant to
31 subsection (3) or (4) of this section, the court shall enter an
32 appropriate order assessing the monetary penalty prescribed for the
33 infraction and any other penalty authorized by this chapter. (~~In~~
34 ~~addition, failure to respond to a notice of infraction, as required by~~
35 ~~this chapter, and failure to appear at a hearing requested pursuant to~~
36 ~~subsection (3) or (4) of this section are each punishable as a~~
37 ~~misdemeanor under chapter 9A.20 RCW.~~)

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