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SENATE BILL 6100

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Kline and Brandland

Read first time 02/21/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to charitable donations and other costs imposed on  
2 defendants; amending RCW 10.01.160; adding a new section to chapter  
3 10.01 RCW; and adding a new section to chapter 46.63 RCW.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 10.01 RCW  
6 to read as follows:

7            A city attorney, county prosecutor, or other prosecuting authority  
8 may not dismiss, amend, or agree not to file a criminal charge in  
9 exchange for a contribution, donation, or payment to any person,  
10 corporation, or organization. This does not prohibit contribution,  
11 donation, or payment to any specific fund authorized by state statute,  
12 or the collection of costs associated with actual supervision,  
13 treatment, collection of restitution under a pretrial diversion  
14 program, or dismissal following payment that is authorized by any other  
15 statute.

16            NEW SECTION.    **Sec. 2.** A new section is added to chapter 46.63 RCW  
17 to read as follows:

18            A city attorney, county prosecutor, or other prosecuting authority

1 may not dismiss, amend, or agree not to file an infraction in exchange  
2 for a contribution, donation, or payment to any person, corporation, or  
3 organization. This does not prohibit contribution, donation, or  
4 payment to any specific fund authorized by state statute, or the  
5 collection of costs associated with actual supervision, treatment,  
6 collection of restitution under a pretrial diversion program, or  
7 dismissal following payment that is authorized by any other statute.

8 **Sec. 3.** RCW 10.01.160 and 2005 c 263 s 2 are each amended to read  
9 as follows:

10 (1) The court may require a defendant to pay costs. Costs may be  
11 imposed only upon a convicted defendant, except for costs imposed upon  
12 a defendant's entry into a deferred prosecution program, costs imposed  
13 upon a defendant for pretrial supervision, or costs imposed upon a  
14 defendant for preparing and serving a warrant for failure to appear.

15 (2) Costs shall be limited to expenses specially incurred by the  
16 state in prosecuting the defendant or in administering the deferred  
17 prosecution program under chapter 10.05 RCW or pretrial supervision.  
18 They cannot include expenses inherent in providing a constitutionally  
19 guaranteed jury trial or expenditures in connection with the  
20 maintenance and operation of government agencies that must be made by  
21 the public irrespective of specific violations of law. Expenses  
22 incurred for serving of warrants for failure to appear and jury fees  
23 under RCW 10.46.190 may be included in costs the court may require a  
24 defendant to pay. Costs for administering a deferred prosecution or  
25 pretrial supervision may not exceed one hundred fifty dollars. Costs  
26 for preparing and serving a warrant for failure to appear may not  
27 exceed one hundred dollars. Costs of incarceration imposed on a  
28 defendant convicted of a misdemeanor or a gross misdemeanor may not  
29 exceed the actual cost of incarceration. In no case may the court  
30 require the offender to pay more than one hundred dollars per day for  
31 the cost of incarceration. Payment of other court-ordered financial  
32 obligations, including all legal financial obligations and costs of  
33 supervision take precedence over the payment of the cost of  
34 incarceration ordered by the court. All funds received from defendants  
35 for the cost of incarceration in the county or city jail must be  
36 remitted for criminal justice purposes to the county or city that is  
37 responsible for the defendant's jail costs. Costs imposed constitute

1 a judgment against a defendant and survive a dismissal of the  
2 underlying action against the defendant. However, if the defendant is  
3 acquitted on the underlying action, the costs for preparing and serving  
4 a warrant for failure to appear do not survive the acquittal, and the  
5 judgment that such costs would otherwise constitute shall be vacated.

6 (3) The court shall not (~~sentence~~) order a defendant to pay costs  
7 unless the defendant is or will be able to pay them. In determining  
8 the amount and method of payment of costs, the court shall take account  
9 of the financial resources of the defendant and the nature of the  
10 burden that payment of costs will impose.

11 (4) A defendant who has been (~~sentenced~~) ordered to pay costs and  
12 who is not in contumacious default in the payment thereof may at any  
13 time petition the sentencing court for remission of the payment of  
14 costs or of any unpaid portion thereof. If it appears to the  
15 satisfaction of the court that payment of the amount due will impose  
16 manifest hardship on the defendant or the defendant's immediate family,  
17 the court may remit all or part of the amount due in costs, or modify  
18 the method of payment under RCW 10.01.170.

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