
SENATE BILL 5009

State of Washington

65th Legislature

2017 Regular Session

By Senator Ericksen

Prefiled 12/15/16.

1 AN ACT Relating to offenses involving economic disruption;
2 amending RCW 9.94A.753; adding a new section to chapter 9A.84 RCW;
3 creating new sections; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes and fully
6 supports the ability of individuals to exercise their rights of free
7 speech, press, and peaceful assembly, and to engage in other
8 constitutionally protected activities. The legislature finds,
9 however, that there is no right to harm another person or prevent
10 another person from exercising his or her rights.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.84
12 RCW to read as follows:

13 (1) The prosecuting attorney may file a special allegation when
14 sufficient evidence exists to show that the accused or an accomplice
15 committed the offense to cause an economic disruption.

16 (2) In a criminal case in which there has been a special
17 allegation and the accused has been convicted of the underlying
18 crime, the court shall make a finding of fact prior to sentencing
19 whether the person committed the offense to cause an economic
20 disruption. If the court finds by a preponderance of the evidence

1 that the person committed a criminal offense to cause an economic
2 disruption, the following additional times shall be added to the
3 sentence for crime of conviction:

4 (a) For a misdemeanor offense, sixty days;

5 (b) For a gross misdemeanor, six months;

6 (c) For any felony offense, twelve months.

7 (3) For purposes of this section, attempting to or causing an
8 economic disruption means a crime intended to:

9 (a) Influence the policy of a government by intimidation or
10 coercion; and

11 (b) Obstruct, hinder, or delay the passage of any train, truck,
12 car, ship, boat, aircraft, or other vehicle or vessel engaged in the
13 carriage, hauling, transport, shipment, or delivery of goods, cargo,
14 freight, or other item, in commerce; or

15 (c) Interferes with, tampers with, damages, or obstructs any
16 pipeline facility, bulk oil terminal, marine terminal, tank car,
17 waterborne vessel or barge, or power plant.

18 (4) Notwithstanding any other provision of law, all terms of
19 confinement under this section are mandatory, shall be served in
20 total confinement, and shall run consecutively to all other
21 sentencing provisions.

22 (5) A person is an accomplice of another person in the commission
23 of the crime if, with knowledge that it will promote or facilitate
24 the commission of the crime, he or she: (a) Solicits, commands,
25 encourages, or requests the other person to commit the crime; or (b)
26 aids or agrees to aid the other person in planning or committing the
27 crime.

28 (6) This offense does not include activity that is reasonably
29 construed as persons engaged in lawful activity including: Law
30 enforcement activity; construction; repair; maintenance; utility
31 work; a lawful strike or picketing; peaceful protest; other
32 authorized or properly permitted conduct; or persons investigating or
33 reporting criminal conduct or illegal activity to proper authorities.

34 **Sec. 3.** RCW 9.94A.753 and 2016 c 86 s 5 are each amended to read
35 as follows:

36 This section applies to offenses committed after July 1, 1985.

37 (1) When restitution is ordered, the court shall determine the
38 amount of restitution due at the sentencing hearing or within one
39 hundred eighty days except as provided in subsection (7) of this

1 section. The court may continue the hearing beyond the one hundred
2 eighty days for good cause. The court shall then set a minimum
3 monthly payment that the offender is required to make towards the
4 restitution that is ordered. The court should take into consideration
5 the total amount of the restitution owed, the offender's present,
6 past, and future ability to pay, as well as any assets that the
7 offender may have.

8 (2) During the period of supervision, the community corrections
9 officer may examine the offender to determine if there has been a
10 change in circumstances that warrants an amendment of the monthly
11 payment schedule. The community corrections officer may recommend a
12 change to the schedule of payment and shall inform the court of the
13 recommended change and the reasons for the change. The sentencing
14 court may then reset the monthly minimum payments based on the report
15 from the community corrections officer of the change in
16 circumstances.

17 (3) Except as provided in subsection (6) of this section,
18 restitution ordered by a court pursuant to a criminal conviction
19 shall be based on easily ascertainable damages for injury to or loss
20 of property, actual expenses incurred for treatment for injury to
21 persons, and lost wages resulting from injury. Restitution shall not
22 include reimbursement for damages for mental anguish, pain and
23 suffering, or other intangible losses, but may include the costs of
24 counseling reasonably related to the offense. Except as provided in
25 subsection (11) of this section, the amount of restitution shall not
26 exceed double the amount of the offender's gain or the victim's loss
27 from the commission of the crime.

28 (4) For the purposes of this section, for an offense committed
29 prior to July 1, 2000, the offender shall remain under the court's
30 jurisdiction for a term of ten years following the offender's release
31 from total confinement or ten years subsequent to the entry of the
32 judgment and sentence, whichever period ends later. Prior to the
33 expiration of the initial ten-year period, the superior court may
34 extend jurisdiction under the criminal judgment an additional ten
35 years for payment of restitution. For an offense committed on or
36 after July 1, 2000, the offender shall remain under the court's
37 jurisdiction until the obligation is completely satisfied, regardless
38 of the statutory maximum for the crime. The portion of the sentence
39 concerning restitution may be modified as to amount, terms, and
40 conditions during any period of time the offender remains under the

1 court's jurisdiction, regardless of the expiration of the offender's
2 term of community supervision and regardless of the statutory maximum
3 sentence for the crime. The court may not reduce the total amount of
4 restitution ordered because the offender may lack the ability to pay
5 the total amount. The offender's compliance with the restitution
6 shall be supervised by the department only during any period which
7 the department is authorized to supervise the offender in the
8 community under RCW 9.94A.728, 9.94A.501, or in which the offender is
9 in confinement in a state correctional institution or a correctional
10 facility pursuant to a transfer agreement with the department, and
11 the department shall supervise the offender's compliance during any
12 such period. The department is responsible for supervision of the
13 offender only during confinement and authorized supervision and not
14 during any subsequent period in which the offender remains under the
15 court's jurisdiction. The county clerk is authorized to collect
16 unpaid restitution at any time the offender remains under the
17 jurisdiction of the court for purposes of his or her legal financial
18 obligations.

19 (5) Restitution shall be ordered whenever the offender is
20 convicted of an offense which results in injury to any person or
21 damage to or loss of property or as provided in subsection (6) or
22 (11) of this section unless extraordinary circumstances exist which
23 make restitution inappropriate in the court's judgment and the court
24 sets forth such circumstances in the record. In addition, restitution
25 shall be ordered to pay for an injury, loss, or damage if the
26 offender pleads guilty to a lesser offense or fewer offenses and
27 agrees with the prosecutor's recommendation that the offender be
28 required to pay restitution to a victim of an offense or offenses
29 which are not prosecuted pursuant to a plea agreement.

30 (6) Restitution for the crime of rape of a child in the first,
31 second, or third degree, in which the victim becomes pregnant, shall
32 include: (a) All of the victim's medical expenses that are associated
33 with the rape and resulting pregnancy; and (b) child support for any
34 child born as a result of the rape if child support is ordered
35 pursuant to a civil superior court or administrative order for
36 support for that child. The clerk must forward any restitution
37 payments made on behalf of the victim's child to the Washington state
38 child support registry under chapter 26.23 RCW. Identifying
39 information about the victim and child shall not be included in the
40 order. The offender shall receive a credit against any obligation

1 owing under the administrative or superior court order for support of
2 the victim's child. For the purposes of this subsection, the offender
3 shall remain under the court's jurisdiction until the offender has
4 satisfied support obligations under the superior court or
5 administrative order for the period provided in RCW 4.16.020 or a
6 maximum term of twenty-five years following the offender's release
7 from total confinement or twenty-five years subsequent to the entry
8 of the judgment and sentence, whichever period is longer. The court
9 may not reduce the total amount of restitution ordered because the
10 offender may lack the ability to pay the total amount. The department
11 shall supervise the offender's compliance with the restitution
12 ordered under this subsection.

13 (7) Regardless of the provisions of subsections (1) through (6)
14 of this section, the court shall order restitution in all cases where
15 the victim is entitled to benefits under the crime victims'
16 compensation act, chapter 7.68 RCW. If the court does not order
17 restitution and the victim of the crime has been determined to be
18 entitled to benefits under the crime victims' compensation act, the
19 department of labor and industries, as administrator of the crime
20 victims' compensation program, may petition the court within one year
21 of entry of the judgment and sentence for entry of a restitution
22 order. Upon receipt of a petition from the department of labor and
23 industries, the court shall hold a restitution hearing and shall
24 enter a restitution order.

25 (8) In addition to any sentence that may be imposed, an offender
26 who has been found guilty of an offense involving fraud or other
27 deceptive practice or an organization which has been found guilty of
28 any such offense may be ordered by the sentencing court to give
29 notice of the conviction to the class of persons or to the sector of
30 the public affected by the conviction or financially interested in
31 the subject matter of the offense by mail, by advertising in
32 designated areas or through designated media, or by other appropriate
33 means.

34 (9) This section does not limit civil remedies or defenses
35 available to the victim, survivors of the victim, or offender
36 including support enforcement remedies for support ordered under
37 subsection (6) of this section for a child born as a result of a rape
38 of a child victim. The court shall identify in the judgment and
39 sentence the victim or victims entitled to restitution and what
40 amount is due each victim. The state or victim may enforce the court-

1 ordered restitution in the same manner as a judgment in a civil
2 action. Restitution collected through civil enforcement must be paid
3 through the registry of the court and must be distributed
4 proportionately according to each victim's loss when there is more
5 than one victim.

6 (10) If a person has caused a victim to lose money or property
7 through the filing of a vehicle report of sale in which the
8 designated buyer had no knowledge of the vehicle transfer or the
9 fraudulent filing of the report of sale, upon conviction or when the
10 offender pleads guilty and agrees with the prosecutor's
11 recommendation that the offender be required to pay restitution to a
12 victim, the court may order the defendant to pay an amount, fixed by
13 the court, not to exceed double the amount of the defendant's gain or
14 victim's loss from the filing of the vehicle report of sale in which
15 the designated buyer had no knowledge of the vehicle transfer or the
16 fraudulent filing of the report of sale. Such an amount may be used
17 to provide restitution to the victim at the order of the court. It is
18 the duty of the prosecuting attorney to investigate the alternative
19 of restitution, and to recommend it to the court, when the
20 prosecuting attorney believes that restitution is appropriate and
21 feasible. If the court orders restitution, the court must make a
22 finding as to the amount of the victim's loss due to the filing of
23 the report of sale in which the designated buyer had no knowledge of
24 the vehicle transfer or the fraudulent filing of the report of sale,
25 and if the record does not contain sufficient evidence to support
26 such finding, the court may conduct a hearing upon the issue. For
27 purposes of this section, "loss" refers to the amount of money or the
28 value of property or services lost.

29 (11) Restitution may be ordered if a person is convicted of or
30 pleads guilty to a criminal offense in which there has been a special
31 allegation that the person committed the offense to cause an economic
32 disruption. The amount of restitution ordered under this subsection
33 may not exceed triple the amount of the offender's gain or the
34 victim's loss from the commission of the crime.

35 NEW SECTION. Sec. 4. This act may be known and cited as the
36 preventing economic disruption act.

37 NEW SECTION. Sec. 5. If any provision of this act or its
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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