

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the City’s criminal code; amending and adding various sections and subsections in Chapters 12A.06 and 12A.10 of the Seattle Municipal Code to conform with changes in state law.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection C of Section 12A.06.040 of the Seattle Municipal Code is amended as follows:

12A.06.040 Harassment.

* * *

C. The court shall determine the necessity for imposing a no-contact order or other conditions of pre-trial release. The Seattle Police Department and Seattle Municipal Court may enforce this section as it relates to orders restricting the defendant’s ability to have contact with the victims or others. The victim shall be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim is involved. If a defendant is found guilty of a crime of harassment and a condition of the sentence restricts the defendant’s ability to have contact with the victim or witnesses, the condition shall be recorded and a written certified copy of that order shall be provided to the victim or witnesses by the clerk of the court. Wilful violation of a court order issued under RCW Chapter 9A.46, this section, or ~~((of an order issued by any court of competent jurisdiction under))~~ an equivalent statute or ordinance, either as a condition of pre-trial release or as a condition of the sentence, is a gross misdemeanor. The written order shall contain the court's directives and shall bear the legend: “Violation of this order is criminal offense under RCW Chapter 9A.46 ~~and~~ or SMC Section 12A.06.040 and will subject a violator to arrest.”

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2 Section 2. Section 12A.06.190 of the Seattle Municipal Code is amended as follows:

3 **12A.06.190 Violation of civil antiharassment protection order.**

4 A. Whenever a civil antiharassment protection order is issued by a court of competent
5 jurisdiction any respondent or person to be restrained who wilfully disobeys the order shall be guilty of a
6 gross misdemeanor.

7 B. A defendant arrested for violating any civil antiharassment protection order issued pursuant
8 to RCW Chapter 10.14 is required to appear in person before a magistrate within one (1) judicial day
9 after the arrest. A defendant who is charged by citation or complaint with violating any civil
10 antiharassment protection order issued pursuant to RCW Chapter 10.14 and not arrested shall appear in
11 court for arraignment in person as soon as practicable, but in no event later than fourteen (14) days after
12 the next day on which the court is in session following the issuance of the citation or the filing of the
13 complaint. At the time of the appearance, the court shall determine the necessity of imposing a no-
14 contact order or no-harassment order and consider the provisions of RCW 9.41.800 or other conditions
15 of pretrial release. Appearances required pursuant to this section are mandatory and cannot be waived.
16

17 Section 3. Subsection B of Section 12A.10.020 of the Seattle Municipal Code is amended as
18 follows:

19 **12A.10.020 Prostitution.**

20 * * *

21 B. It is an affirmative defense in any prosecution under this section that:

22 1. the sexual conduct was engaged in as part of any stage performance, play, or other
23 entertainment, open to members of the public; or
24

3. fulfill the terms of a program, if a first-time offender, designated by the court,
1 designed to educate offenders about the negative costs of prostitution.

2 These requirements are ((~~This requirement is~~)) in addition to the penalties set forth in
3 Section 12A.10.070.

4 * * *

5 Section 5. Section 12A.10.070 of the Seattle Municipal Code is amended as follows:

6 **12A.10.070 Mandatory fee for defendant convicted of or entering into a diversion**
7 **agreement or deferred prosecution for a prostitution-related offense; forfeiture of funds used as**
8 **part of prostitution-related offenses.**

9 A. 1. In addition to penalties set forth in Section 12A.10.020 ((~~and Section 12A.10.060~~)), a
10 person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered
11 into a statutory or nonstatutory diversion agreement as a result of an arrest for violating Section
12 12A.10.020 ((~~or Section 12A.10.060~~)) shall be assessed a fee of Fifty Dollars (\$50.00).

13 2. In addition to penalties set forth in Section 12A.10.040, a person who is either convicted or
14 given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory
15 diversion agreement as a result of an arrest for violating Section 12A.10.040 shall be assessed a fee in
16 the amount of One Thousand Five Hundred Dollars (\$1500.00) if the person has no prior convictions,
17 deferred sentences, deferred prosecutions or statutory or nonstatutory diversion agreements for this
18 offense, Two Thousand Five Hundred Dollars (\$2500.00) if the person has one (1) prior conviction,
19 deferred sentence, deferred prosecution or statutory or nonstatutory diversion agreement for this offense
20 and Five Thousand Dollars (\$5000.00) if the person has two (2) or more prior convictions, deferred
21 sentences, deferred prosecutions or statutory or nonstatutory diversion agreements for this offense ((~~One~~
22 ~~Hundred Fifty Dollars (\$150.00)))).~~

1 3. In addition to penalties set forth in Section 12A.10.060, a person who is either convicted or
2 given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory
3 diversion agreement as a result of an arrest for violating Section 12A.10.060 shall be assessed a fee in
4 the amount of One Thousand Five Hundred Dollars (\$1500.00) if the person has no prior convictions,
5 deferred sentences, deferred prosecutions or statutory or nonstatutory diversion agreements for this
6 offense, Two Thousand Five Hundred Dollars (\$2500.00) if the person has one (1) prior conviction,
7 deferred sentence, deferred prosecution or statutory or nonstatutory diversion agreement for this offense
8 and Five Thousand Dollars (\$5000.00) if the person has two (2) or more prior convictions, deferred
9 sentences, deferred prosecutions or statutory or nonstatutory diversion agreements for this offense.

10 * * *

11 C. The court shall not reduce, waive, or suspend payment of all or part of the assessed fee in
12 subsection A of this section unless it finds, on the record, that the offender does not have the ability to
13 pay the fee, in which case it may reduce the fee by an amount up to two-thirds of the maximum
14 allowable fee. The court may suspend payment of all or part of the fees required by subsection
15 ((subsections A and)) B of this section only if the person presents documentary evidence, such as a tax
16 return, wage receipts or bank statements, showing that the person's annual income before taxes is less
17 than the most recent United States Department of Health and Human Services poverty guidelines for the
18 48 contiguous states and the District of Columbia.

19 * * *

20 E. The fee assessed and collected under subsection A of this section shall be collected by the
21 clerk of the court and remitted and subject to the use and distribution conditions of RCW 9A.88.120(4).
22 ((Any fee assessed under subsection A of this section shall be collected by the clerk of the court and
23 distributed each month to the state treasurer for deposit in the prostitution prevention and intervention
24

1 ~~account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention~~
2 ~~activities.))~~ Any fee assessed under subsection B of this section and the portion of any fine imposed
3 upon a defendant convicted of a violation of Section 12A.10.010, 12A.10.020, 12A.10.040 or
4 12A.10.060 that is retained by the City shall be collected by the clerk of the court or the Director of
5 Probation Services and shall be deposited in the Sex Industry Victims Fund. Monies forfeited under
6 subsection D of this section shall be deposited in the Vice Enforcement/Money Laundering Forfeiture
7 Account.

8 * * *

9 Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its
10 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
11 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

12 Passed by the City Council the ____ day of _____, 2012, and signed by
13 me in open session in authentication of its passage this ____ day of _____, 2012.

14 _____
15 President _____ of the City Council

16 Approved by me this ____ day of _____, 2012.

17 _____
18 Michael McGinn, Mayor

19 Filed by me this ____ day of _____, 2012.

20 _____
21 Monica Martinez Simmons, City Clerk

22 (Seal)