

FILED

SEP 23, 2015

Court of Appeals  
Division III  
State of Washington

No. 33270-5-III

IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION III

STATE OF WASHINGTON,  
Plaintiff/Respondent,

vs.

ESTEBAN JOEL FLORES,  
Defendant/Appellant.

APPEAL FROM THE WALLA WALLA COUNTY SUPERIOR COURT  
JUVENILE DEPARTMENT  
Honorable M. Scott Wolfram, Judge

---

BRIEF OF APPELLANT

---

SUSAN MARIE GASCH  
WSBA No. 16485  
P. O. Box 30339  
Spokane, WA 99223-3005  
(509) 443-9149  
Attorney for Appellant

**TABLE OF CONTENTS**

A. ASSIGNMENTS OF ERROR.....1

B. STATEMENT OF THE CASE.....2

C. ARGUMENT.....4

    1. A court lacks statutory authority to impose local sanctions upon a conviction for disturbing school activities where RCW 28A.635.030 specifies the penalty shall be a fine no more than fifty dollars.....4

    2. The imposition of \$110 in court costs in a juvenile disposition is not authorized by statute.....13

D. CONCLUSION.....14

## TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page</u>
<i>Cockle v. Dep't of Labor &amp; Indus.</i> , 142 Wn.2d 801, 16 P.3d 583 (2001)...	5
<i>Matter of the Postsentence Review of Leach</i> , 161 Wn.2d 180, 163 P.3d 782 (2007).....	5
<i>Pierce County v. Magnuson</i> , 70 Wash. 639, 127 P. 302 (1912).....	13
<i>State v. Ammons</i> , 105 Wn.2d 175, 713 P.2d 719, 718 P.2d 796 (1986).....	4
<i>State v. Bryan</i> , 93 Wn.2d 177, 606 P.2d 1228 (1980).....	4
<i>State v. Chapman</i> , 140 Wn. 2d 436998 P.2d 282, 288 (2000).....	6
<i>State v. Keller</i> , 143 Wn.2d 267, 19 P.3d 1030 (2001).....	5
<i>State v. Monday</i> , 85 Wn.2d 906, 540 P.2d 416 (1975).....	4
<i>State v. Mulcare</i> , 189 Wn. 62566 P.2d 360 (1937).....	4
<i>State v. Reyes</i> , 104 Wn.2d 35, 700 P.2d 1155 (1985).....	6
<i>State v. Shannahan</i> , 69 Wn. App. 512, 849 P.2d 1239 (1993).....	10, 11, 12
<i>State v. Sizemore</i> , 48 Wn. App. 835, 741 P.2d 572, 574 (1987).....	13
<i>State v. Swanson</i> , 116 Wn. App. 67, 65 P.3d 343 (2003).....	9
<i>State v. Watson</i> , 146 Wn.2d 947, 51 P.3d 66 (2002).....	5
<i>State v. Wilson</i> , 125 Wn.2d 212, 883 P.2d 320 (1994).....	5
<i>Wash. Natural Gas Co. v. Pub. Util. Dist. No. 1</i> , 77 Wn.2d 94, 459 P.2d 633 (1969).....	9

**Statutes**

Const. Art. 1, §5.....6

RCW 7.68.035(1)(b) (Laws of 2009 c 479 § 8, eff. July 1, 2009).....14

9A.20 RCW.....9

RCW 9A.20.020.....11

RCW 9A.20.021.....11

RCW 9A.20.021(3).....10, 12

RCW 9A.20.030.....11

RCW 9A.20.030(1).....11

RCW 13.40.0357.....12

RCW 13.40.160(11).....13

F  
ormer RCW 28A.87.010.....6

Title 28A, “Common School Provisions”.....6

Chapter 28A.635, “Offenses Relating to School Property  
and Personnel”.....6, 8, 9

RCW 28A.635.010.....Appendix A, 6, 10

RCW 28A.635.020.....Appendix A, 7, 9

RCW 28A.635.020(6).....Appendix A, 7

RCW 28A.635.030.....Appendix A, 2, 4, 5, 10, 12

RCW 28A.635.040.....Appendix A, 7, 10

RCW 28A.635.050.....Appendix A, 7, 9

RCW 28A.635.060.....	Appendix A, 7, 9
RCW 28A.635.060(2).....	Appendix A, 7
RCW 28A.635.070.....	Appendix A, 7, 10
RCW 28A.635.080.....	Appendix A, 8, 10
RCW 28A.635.090.....	Appendix A, 8, 9
RCW 28A.635.100.....	Appendix A, 8, 9
RCW 28A.635.100(2).....	Appendix A, 8
RCW 28A.635.110.....	Appendix A
RCW 36.18.020.....	13
RCW 36.18.020(h).....	13
Former RCW 46.61.525 (amended 1996 c 307 § 1).....	11
RCW 46.61.525.....	10

**Miscellaneous Resources**

Appendix A.....	5, 6
-----------------	------

**A. ASSIGNMENTS OF ERROR**

1. The court erred in entering Conclusions of Law 1, “The standard range disposition for misdemeanors is local sanctions. RCW 13.40.0357; 13.40.020(18).” CP 56 and 78.

2. The court erred in entering Conclusions of Law 2, “The fine for Disturbing School Activities is capped at fifty dollars (\$50). RCW 28A.635.030.” CP 56 and 78.

3. The court erred in entering Conclusions of Law 3, “Any standard condition of disposition not specifically modified by statute remains unaltered and may be imposed. *State v. Shannahan*, 69 Wn. App. 512, 516, 849 P.2d 1239 (1993).” CP 56 and 78.

4. The court erred in entering Conclusion of Law 4, “Based on the foregoing, the Court may impose standard range, with the exception of a cap on any fine.” CP 56.

5. The court erred in entering Conclusion of Law 5, “The Court may impose the standard standard [sic]range.” CP 78.

6. The court erred in imposing detention and community supervision, including conditions and community service hours, as part of the disposition.

7. The court erred in imposing \$110 in court costs as part of the disposition.

*Issues Pertaining to Assignments of Error*

1. Does a court lack statutory authority to impose local sanctions including detention and community supervision upon a conviction for disturbing school activities where RCW 28A.635.030 specifies the penalty shall be a fine no more than fifty dollars?

2. Does a court lack authority to impose \$110 in court costs in a juvenile disposition?

**B. STATEMENT OF THE CASE**

During school hours at Walla Walla High School, seventeen-year-old Esteban Joel Flores threw one punch at a fellow student in the parking lot. The incident occurred within the eyesight of the school's assistant principal and the resource officer. Mr. Flores ran away and was apprehended. Although what precipitated the event was unknown, physical fighting and assault are described as causing "disruptions to the education of other students" in the school's handbook. Mr. Flores had never been in criminal trouble before, on or off campus. RP 3–6, 18, 25–26, 31, 36–38, 42–43, 48, 53–54.

Mr. Flores was found guilty after adjudication of Disturbing School by willfully creating a disturbance on school premises during school hours. He was found not guilty of Attempted Criminal Trespass in the Second Degree, a charge stemming from his arrival at the school in a public bus two months after the incident. RP 9–10, 21–23, 39, 41, 45; CP 53.

Prior to sentencing, defense counsel provided legal authorities in support of his argument that the statute under which Mr. Flores was charged, RCW 28A.635.030, did not authorize detention or local sanctions but instead limited his punishment to a fine of not more than fifty dollars. CP 30–33, 39–51. The State responded the statute only “capped” the available fine and that detention and other local sanctions remained available pursuant to RCW 9A.20.021(3) and RCW 13.40.1357. CP 34–38. Agreeing with the State, the court imposed three days detention, a \$75 crime victim’s penalty assessment, a \$100 fee for court costs, and four months community supervision including community service hours and numerous conditions. CP 61–63. After considering briefing, the court denied defense counsel’s motion for reconsideration. CP 66–68, 69–71, 72. The court entered written Findings of Fact and Conclusions of Law

regarding the adjudication of guilt, Conclusions of Law on Sentencing, and Order Denying Motion for Reconsideration. CP 52–54, 55–57, 77–79.

This appeal followed. CP 73–74.

## C. ARGUMENT

### **1. A court lacks statutory authority to impose local sanctions upon a conviction for disturbing school activities where RCW 28A.635.030 specifies the penalty shall be a fine no more than fifty dollars.<sup>1</sup>**

Sentencing is a legislative power, not a judicial power. *State v. Bryan*, 93 Wn.2d 177, 181, 606 P.2d 1228 (1980). The legislature has the power to fix punishment for crimes subject only to the constitutional limitations against excessive fines and cruel punishment. *State v. Mulcare*, 189 Wn. 625, 628, 66 P.2d 360 (1937). It is the function of the legislature and not the judiciary to alter the sentencing process. *State v. Monday*, 85 Wn.2d 906, 909-910, 540 P.2d 416 (1975). A trial court's discretion to impose sentence is limited to what is granted by the legislature, and the court has no inherent power to develop a procedure for imposing a sentence unauthorized by the legislature. *State v. Ammons*, 105 Wn.2d 175, 713 P.2d 719, 718 P.2d 796 (1986).

Statutory construction is a question of law which is reviewed de novo. *Matter of the Postsentence Review of Leach*, 161 Wn.2d 180, 184, 163 P.3d 782 (2007), citing *Cockle v. Dep't of Labor & Indus.*, 142 Wn.2d 801, 807, 16 P.3d 583 (2001). "This court applies unambiguous statutes according to their plain language and construes only ambiguous statutes." Leach, 161 Wn.2d at 185, citing *State v. Wilson*, 125 Wn.2d 212, 217, 883 P.2d 320 (1994). When interpreting a statute, a court must first assume that the legislature means exactly what it says. *State v. Keller*, 143 Wn.2d 267, 276, 19 P.3d 1030 (2001). If the statute is clear on its face, its meaning is derived from the statutory language alone. *State v. Watson*, 146 Wn.2d 947, 51 P.3d 66 (2002).

Mr. Flores was found guilty of the misdemeanor offense of disturbing school, school activities, "the penalty for which shall be a fine in any sum not more than fifty dollars." RCW 28A.635.030; Appendix A, p. 3. The statute provides:

Any person who shall willfully create a disturbance on school premises during school hours or at school activities or school meetings shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not more than fifty dollars.

---

<sup>1</sup> Assignment of Error Nos. 1 through 6.

The language of the statute is plain and unambiguous. There is nothing in the statute that either expressly or impliedly allows for punishment beyond a fine of not more than fifty dollars.

Rules of statutory construction support this conclusion. Each provision of a statute should be read together (*in pari materia*) with other provisions in order to determine the legislative intent underlying the entire statutory scheme. *State v. Chapman*, 140 Wn. 2d 436, 448, 998 P.2d 282, 288 (2000). The instant statute should be compared with the surrounding provisions of Title 28A, “Common School Provisions,” specifically Chapter 28A.635, “Offenses Relating to School Property and Personnel.” The statutes comprising Chapter 28A.635 are set forth herein as Appendix A. An examination of those statutes demonstrates the Legislature was very specific about the classification of offense and the punishment available under each offense.

- Violation of RCW 28A.635.010, prohibiting the insult or abuse of a teacher on school premises, is a misdemeanor “the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars.”<sup>2</sup>

---

<sup>2</sup> Former RCW 28A.87.010 (now this section) violates Const. Art. 1, §5, protecting free speech. *State v. Reyes*, 104 Wn.2d 35, 700 P.2d 1155 (1985).

- Violation of RCW 28A.635.020, prohibiting willful disobedience of school administrative personnel or refusal to leave public property, is a gross misdemeanor “punishable as provided in chapter 9A.20 RCW.” RCW 28A.635.020(6).
- Violation of RCW 28A.635.040, prohibiting disclosure of examination questions, is a misdemeanor “the penalty for which shall be a fine in any sum not less than one hundred nor more than five hundred dollars.
- Violation of RCW 28A.635.050, proscribing certain willful corrupt practices of school officials, is a misdemeanor and the legislature did not specify a penalty.
- Violation of RCW 28A.635.060, defacing or injuring school property by a pupil, potentially subjects the student to suspension and punishment and the parents or guardian to liability for damages provided procedures to ensure due process are in place “before any penalties are assessed under this section.” RCW 28A.635.060(2).
- Violation of RCW 28A.635.070, failure of officials or employees to deliver to their qualified successor all books, papers and records pertaining to their position or willful destruction of the same is a misdemeanor“ the penalty for which shall be a fine not to exceed one hundred dollars” per day of non-compliance.

- Violation of RCW 28A.635.080, prohibiting a school district director's connivance to employ uncertified teachers, results in personal liability to the district for any losses sustained by reason of its employment of such person.
- Violation of RCW 28A.635.090, prohibiting interference by force or violence with school officials, employees or students in the peaceful discharge of their duties or studies, may subject a student violator to immediate suspension or expulsion and is a gross misdemeanor and the violator "shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months, or both such fine and imprisonment."
- Violation of RCW 28A.635.100, prohibiting intimidation of school personnel and students by threat of force or violence, is a gross misdemeanor and the violator "shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months, or both such fine and imprisonment." RCW 28A.635.100(2).

The last statute in the chapter, RCW 28A.635.110, states the crimes described in RCW 28A.635.090 and .100 do not apply to school personnel who are acting within their reasonable disciplinary authority.

The foregoing provisions indicate the state legislature was well aware of the difference in penalties it intended for these crimes and set forth the punishment for each crime under Chapter 28A.635. Under the common maxim of statutory construction, *expressio unius est exclusio*

*alterius*, “[w]here a statute specifically designates the things or classes of things upon which it operates, an inference arises in law that all things or classes of things omitted from it were intentionally omitted by the legislature.” *State v. Swanson*, 116 Wn. App. 67, 75, 65 P.3d 343 (2003), citing *Wash. Natural Gas Co. v. Pub. Util. Dist. No. 1*, 77 Wn.2d 94, 98, 459 P.2d 633 (1969).

The statutory scheme of defining crime and punishment in Chapter 28A.635 is deliberate and intentional. The Legislature did not classify a student’s defacing or injuring school property as a crime but specified the student was subject to suspension and punishment and the student’s parents possibly subject to liability for damages.<sup>3</sup> For the three crimes classified as gross misdemeanors, the Legislature authorized a penalty of a fine or imprisonment or both,<sup>4</sup> or specified it would be the penalty set forth in 9A.20 RCW (higher fine, longer term of imprisonment or both).<sup>5</sup> Regarding two of the crimes classified as misdemeanors, the Legislature did not specify a penalty for the corruption offense<sup>6</sup> and chose personal liability for losses sustained as the punishment for conniving to hire

---

<sup>3</sup> RCW 28A.635.060.

<sup>4</sup> RCW 28A.635.090, .100.

<sup>5</sup> RCW 28A.635.020.

<sup>6</sup> RCW 28A.635.050.

uncertified teachers.<sup>7</sup> For the four remaining crimes classified as misdemeanors, including the one at issue here, the legislature authorized only a fine as punishment.<sup>8</sup>

Applying the common principles of statutory construction set forth above, the term "penalty" contained in RCW 28A.635.030 can only be reasonably construed as referring to the "fine in any sum not more than fifty dollars" as the entire punishment for that offense.

In the trial court, the State relied upon *State v. Shannahan* in arguing that silence as to imprisonment in RCW 28A.635.030 implies the status quo regarding standard sentencing conditions for misdemeanors is unaltered and detention is an available penalty. CP 35–36. The SRA provides that generally, misdemeanors are punishable by imprisonment up to ninety days in jail, or a \$1,000 fine, or both. RCW 9A.20.021(3). *Shannahan* does not support the State's position.

In *State v. Shannahan*, 69 Wn. App. 512, 849 P.2d 1239 (1993), the court addressed the imposition of restitution in a negligent driving case. At that time, negligent driving had not been broken into first and second degrees, and RCW 46.61.525 specifically stated negligent driving "is not punishable by imprisonment or by a fine exceeding two hundred

---

<sup>7</sup> RCW 28A.635.080.

<sup>8</sup> RCW 28A.635.010, .030, .040, .070.

fifty dollars.” Former RCW 46.61.525 (amended 1996 c 307 § 1). The defendant there argued that since the penalty was limited to a fine, the court could not impose restitution under RCW 9A.20.030. *Shannahan*, 69 Wn. App. at 514. If appropriate, that statute provides for imposition of restitution “in lieu of imposing the fine authorized for the offense under RCW 9A.20.020<sup>9</sup> . . . .” RCW 9A.20.030(1). The court disagreed with *Shannahan*, reasoning:

Since the Legislature specifically reduced the standard misdemeanor penalty in the case of negligent driving without reference to restitution, the compelling inference is that the Legislature did not intend to remove the restitution authority generally applicable to misdemeanors.

*Id.* at 516. The court upheld the imposition of restitution. *Id.* at 521.

The *Shannahan* court recognized the Legislature’s specific reduction of the standard misdemeanor penalty in the case of negligent driving from imprisonment and/or a fine to the penalty of only a fine, evidenced a “clear[] desire[] to establish a special penalty for negligent driving different from the standard misdemeanor penalty.” *Shannahan*, 69 Wn. App. at 516. It concluded imposition of restitution in lieu of the fine

---

<sup>9</sup> “We note that this statute permits an order of restitution in lieu of the fine authorized under RCW 9A.20.020. RCW 9A.20.020 deals with crimes committed before July 1, 1984. RCW 9A.20.021 sets forth the maximum sentences for crimes committed July 1, 1984 and after. We hold that the authorization of restitution in lieu of a fine in RCW 9A.20.030 applies with equal force to fines imposed pursuant to RCW 9A.20.020 and to those imposed pursuant to RCW 9A.20.021.” *Shannahan*, 69 Wn. App. at 514 n.2.

pursuant to a statute that authorized such substitution did not implicate the Legislature's choice to reduce the standard misdemeanor penalty to a fine with no term of confinement.

Here, as in *Shannahan*, the Legislature also chose to reduce the standard misdemeanor penalty in the case of disturbing school activities from imprisonment and/or a fine to the penalty of only a fine. However, the trial court's conclusion that it may nevertheless impose additional punishment of imprisonment and community supervision is not supported by *Shannahan*. *Shannahan* did not authorize additional punishment. Instead, it allowed a restitution alternative to the Legislature's choice of the reduced punishment of simply a fine because the Legislature had not excluded the restitution statute from consideration in the context of assessing a fine as punishment. Here, the imposition of detention and community supervision is additional punishment. It is unlawful because the Legislature authorized only the penalty of a fine. RCW 28A.635.030.

Since Mr. Flores' punishment is determined by RCW 28A.635.030, the provisions of RCW 9A.20.021(3) and RCW 13.40.0357 are inapplicable. Further, his punishment and the punishment of any adult for the misdemeanor crime of disturbing school activities is limited to a fine of fifty dollars or less and cannot include confinement. Thus Mr.

Flores' sentence of three days confinement exceeds the sentence an adult could face for the same offense and his sentence was additionally unlawful under RCW 13.40.160(11). Because the court could not impose detention, conditions of release are not appropriate or available options.

The sentencing court had no authority to impose detention and community supervision upon Mr. Flores' conviction for the misdemeanor crime of disturbing school activities. The matter must be remanded for resentencing.

**2. The imposition of \$110 in court costs in a juvenile disposition is not authorized by statute.<sup>10</sup>**

“ ‘[C]osts are the creature of statute’ ”; there is “ ‘no inherent power in the courts to award costs’ ” absent express statutory authority.” *State v. Sizemore*, 48 Wn. App. 835, 839, 741 P.2d 572, 574 (1987), citing *Pierce County v. Magnuson*, 70 Wash. 639, 641, 127 P. 302 (1912). RCW 36.18.020 provides in pertinent part that, “[u]pon conviction . . . , an adult defendant in a criminal case shall be liable for a fee of two hundred dollars.” RCW 36.18.020(h). Mr. Flores was a juvenile defendant. The

---

<sup>10</sup> Assignment of Error No. 7.

statute does not apply to him and the court erred in imposing court costs.<sup>11</sup>

**D. CONCLUSION**

For the reasons stated, this Court should remand the matter for resentencing.

Respectfully submitted on September 23, 2015.

---

s/Susan Marie Gasch, WSBA  
Gasch Law Office  
P.O. Box 30339  
Spokane, WA 99223-3005  
(509) 443-9149  
FAX: None  
[gaschlaw@msn.com](mailto:gaschlaw@msn.com)

---

<sup>11</sup> The court imposed a crime victim's compensation assessment of \$75. CP 63. This assessment is authorized by RCW 7.68.035(1)(b): "When any juvenile is adjudicated of any offense in any juvenile offense disposition under Title 13 RCW ..., there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be ... seventy-five dollars for each case or cause of action that includes adjudications of only one or more misdemeanors." Laws of 2009 c 479 § 8, eff. July 1, 2009.

PROOF OF SERVICE (RAP 18.5(b))

I, Susan Marie Gasch, do hereby certify under penalty of perjury that on September 23, 2015, I mailed to the following by U.S. Postal Service first class mail, postage prepaid, or provided e-mail service by prior agreement (as indicated), a true and correct copy of brief of appellant:

Esteban Joel Flores  
433 N. 5th Avenue  
Walla Walla WA 99362

**E-mail:** [prosecutor@co.walla-walla.wa.us](mailto:prosecutor@co.walla-walla.wa.us)  
James Lyle Nagle  
Prosecuting Attorney  
240 West Alder Street, Suite 201  
Walla Walla WA 99362-2807

---

s/Susan Marie Gasch, WSBA #16485

APPENDIX A

REVISED CODE OF WASHINGTON

Title 28A Common School Provisions

Chapter 28A.635. Offenses Relating to  
School Property and Personnel

**28A.635.010. Abusing or insulting teachers, liability for--  
Penalty<sup>12</sup>**

Any person who shall insult or abuse a teacher anywhere on the school premises while such teacher is carrying out his or her official duties, shall be guilty of a misdemeanor, the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars.

Credits:

[1990 c 33 § 536; 1984 c 258 § 314; 1969 ex.s. c 199 § 55; 1969 ex.s. c 223 § 28A.87.010. Prior: 1909 c 97 p 360 § 11; RRS § 5054; prior: 1903 c 156 § 11; 1897 c 118 § 169; 1890 p 383 § 86. Formerly RCW 28A.87.010, 28.87.010.]

---

<sup>12</sup> Section 28A.87.010 RCW (now this section) violates Const. Art. 1, §5, protecting free speech. *State v. Reyes*, 104 Wn.2d 35, 700 P.2d 1155 (1985).

**28A.635.020. Willfully disobeying school administrative personnel or refusing to leave public property, violations, when--Penalty**

(1) It shall be unlawful for any person to willfully disobey the order of the chief administrative officer of a public school district, or of an authorized designee of any such administrator, to leave any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district if the person so ordered is under the influence of alcohol or drugs, or is committing, threatens to imminently commit or incites another to imminently commit any act which would disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district. The order of a school officer or designee acting pursuant to this subsection shall be valid if the officer or designee reasonably believes a person ordered to leave is under the influence of alcohol or drugs, is committing acts, or is creating a disturbance as provided in this subsection.

(2) It shall be unlawful for any person to refuse to leave public property immediately adjacent to a building, grounds or property which is owned, operated or controlled by a school district when ordered to do so by a law enforcement officer if such person is engaging in conduct which creates a substantial risk of causing injury to any person, or substantial harm to property, or such conduct amounts to disorderly conduct under RCW 9A.84.030.

(3) Nothing in this section shall be construed to prohibit or penalize activity consisting of the lawful exercise of freedom of speech, freedom of press and the right to peaceably assemble and petition the government for a redress of grievances: PROVIDED, That such activity neither does or threatens imminently to materially disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district, or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district: PROVIDED FURTHER, That such activity is not conducted in violation of a prohibition or limitation lawfully imposed by the school district upon entry or use of any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district.

(4) Any person guilty of violating this section shall be deemed guilty of a gross misdemeanor punishable as provided in chapter 9A.20 RCW.

Credits:

[1997 c 266 § 6; 1981 c 36 § 1; 1975-'76 2nd ex.s. c 100 § 1. Formerly RCW 28A.87.055.]

**28A.635.030. Disturbing school, school activities or meetings--  
Penalty**

Any person who shall willfully create a disturbance on school premises during school hours or at school activities or school meetings shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not more than fifty dollars.

Credits:

[1984 c 258 § 315; 1969 ex.s. c 199 § 57; 1969 ex.s. c 223 § 28A.87.060. Prior: 1909 c 97 p 361 § 12; RRS § 5055; prior: 1903 c 156 § 12; 1897 c 118 § 170; 1890 p 383 § 87. Formerly RCW 28A.87.060, 28.87.060.]

**28A.635.040. Examination questions--Disclosing--Penalty**

Any person having access to any question or questions prepared for the examination of teachers or common school pupils, who shall directly or indirectly disclose the same before the time appointed for the use of the questions in the examination of such teachers or pupils, or who shall directly or indirectly assist any person to answer any question submitted, shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not less than one hundred nor more than five hundred dollars.

Credits:

[1984 c 258 § 316; 1969 ex.s. c 199 § 58; 1969 ex.s. c 223 § 28A.87.070. Prior: 1909 c 97 p 357 § 1; RRS § 5043; prior: 1903 c 156 § 1; 1897 c 118 § 159. Formerly RCW 28A.87.070, 28.87.070.]

**28A.635.050. Certain corrupt practices of school officials--  
Penalty**

(1) Except as otherwise provided in chapter 42.23 RCW, it shall be unlawful for any member of the state board of education, the superintendent of public instruction or any employee of the superintendent's office, any educational service district superintendent, any school district superintendent or principal, or any director of any school district, to request or receive, directly or indirectly, anything of value for or on account of his or her influence with respect to any act or proceeding of the state board of education, the office of the superintendent of public instruction, any office of educational service district superintendent or any school district, or any of these, when such act or proceeding shall inure to the benefit of those offering or giving the thing of value.

(2) Any willful violation of this section is a misdemeanor.

Credits:

[2003 c 53 § 168, eff. July 1, 2004; 1990 c 33 § 537; 1975 1st ex.s. c 275 § 143; 1969 ex.s. c 176 § 150; 1969 ex.s. c 223 § 28A.87.090. Prior: 1917 c 126 § 1; RRS § 5050. Formerly RCW 28A.87.090, 28.87.090.]

**28A.635.060. Defacing or injuring school property--Liability of pupil, parent, or guardian--Withholding grades, diploma, or transcripts--Suspension and restitution--Voluntary work program as alternative--Rights protected**

(1) Any pupil who defaces or otherwise injures any school property, or property belonging to a school contractor, employee, or another student, is subject to suspension and punishment. If any property of the school district, a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, the school district may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. If the student is suspended, the student may not be readmitted until the student or parents or legal guardian has made payment in full or until directed by the superintendent of schools. If the property damaged is a school bus owned and operated by or contracted to any school district, a student suspended for the damage may not be permitted to enter or ride any school bus until the student or parent or legal guardian has made payment in full or until directed by the superintendent. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason.

Credits:

[1997 c 266 § 13; 1994 c 304 § 1; 1993 c 347 § 3; 1989 c 269 § 6; 1982 c 38 § 1; 1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28A.87.120, 28.87.120.]

**28A.635.070. Property, failure of officials or employees to account for--Mutilation by--Penalties**

Any school district official or employee who shall refuse or fail to deliver to his or her qualified successor all books, papers, and records pertaining to his or her position, or who shall willfully mutilate or destroy any such property, or any part thereof, shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed one hundred dollars: PROVIDED, That for each day there is a refusal or failure to deliver to a successor books, papers and records, a separate offense shall be deemed to have occurred.

Credits:

[1990 c 33 § 538; 1984 c 258 § 317; 1969 ex.s. c 199 § 60; 1969 ex.s. c 223 § 28A.87.130. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.130, 28.87.130, part.]

**28A.635.080. Director's connivance to employ uncertified teachers--Liability**

Any school district director who shall aid in or give his or her consent to the employment of a teacher who is not the holder of a valid teacher's certificate issued under authority of chapter 28A.410 RCW authorizing him or her to teach in the school district by which employed shall be personally liable to his or her district for any loss which it may sustain by reason of the employment of such person.

Credits:

[1990 c 33 § 539; 1969 ex.s. c 223 § 28A.87.135. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.135, 28.87.130, part, 28.87.160.]

**28A.635.090. Interference by force or violence--Penalty**

(1) It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher, classified employee, person under contract with the school or school district, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. Any such interference by force or violence committed by a student shall be grounds for immediate suspension or expulsion of the student.

(2) A person violating this section is guilty of a gross misdemeanor and shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months, or both such fine and imprisonment.

Credits:

[2003 c 53 § 169, eff. July 1, 2004; 1996 c 321 § 3; 1990 c 33 § 540; 1988 c 2 § 1; 1971 c 45 § 3. Formerly RCW 28A.87.230.]

**28A.635.100. Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful--Penalty**

(1) It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies.

(2) A person violating this section is guilty of a gross misdemeanor and shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months, or both such fine and imprisonment.

Credits:

[2003 c 53 § 170, eff. July 1, 2004; 1990 c 33 § 541; 1988 c 2 § 2; 1971 c 45 § 4. Formerly RCW 28A.87.231.]

**28A.635.110. Violations under RCW 28A.635.090 and  
28A.635.100--Disciplinary authority exception**

The crimes defined in RCW 28A.635.090 and 28A.635.100 shall not apply to school administrators, teachers, or classified employees who are engaged in the reasonable exercise of their disciplinary authority.

Credits:

[1990 c 33 § 542; 1988 c 2 § 3; 1971 c 45 § 5. Formerly RCW 28A.87.232.]