

1 1357-S.E AMS HSC S2887.1

2 ESHB 1357 - S COMM AMD

3 By Committee on Human Services & Corrections

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. I. RCW 9.95.210 and 1993 c 251 s 3 are each amended to
8 read as follows:

9 (1) In granting probation, the court may suspend the
10 imposition or the execution of the sentence and may direct that the
11 suspension may continue upon such conditions and for such time as
12 it shall designate, not exceeding the maximum term of sentence or
13 two years, whichever is longer.

14 (2) In the order granting probation and as a condition
15 thereof, the court may in its discretion imprison the defendant in
16 the county jail for a period not exceeding one year and may fine
17 the defendant any sum not exceeding the statutory limit for the
18 offense committed, and court costs. As a condition of probation,
19 the court shall require the payment of the penalty assessment
20 required by RCW 7.68.035. The court may also require the defendant
21 to make such monetary payments, on such terms as it deems
22 appropriate under the circumstances, as are necessary ~~((+1+))~~ (a)
23 to comply with any order of the court for the payment of family
24 support, ~~((+2+))~~ (b) to make restitution to any person or persons
25 who may have suffered loss or damage by reason of the commission of
26 the crime in question or when the offender pleads guilty to a
27 lesser offense or fewer offenses and agrees with the prosecutor's
28 recommendation that the offender be required to pay restitution to
29 a victim of an offense or offenses which are not prosecuted
30 pursuant to a plea agreement, ~~((+3+))~~ (c) to pay such fine as may
31 be imposed and court costs, including reimbursement of the state
32 for costs of extradition if return to this state by extradition was

1 required, (~~(+4)~~) (d) following consideration of the financial
2 condition of the person subject to possible electronic monitoring,
3 to pay for the costs of electronic monitoring if that monitoring
4 was required by the court as a condition of release from custody or
5 as a condition of probation, (~~(+5)~~) (e) to contribute to a county
6 or interlocal drug fund, and (~~(+6)~~) (f) to make restitution to a
7 public agency for the costs of an emergency response under RCW
8 38.52.430, and may require bonds for the faithful observance of any
9 and all conditions imposed in the probation.

10 (3) In granting probation, the court (~~shall~~) may order the
11 probationer to report to the secretary of corrections or such
12 officer as the secretary may designate and as a condition of the
13 probation to follow implicitly the instructions of the secretary.

14 (4) If the probationer has been ordered to make restitution
15 and the court has ordered supervision, the officer supervising the
16 probationer shall make a reasonable effort to ascertain whether
17 restitution has been made. If the court has ordered supervision
18 and restitution has not been made as ordered, the officer shall
19 inform the prosecutor of that violation of the terms of probation
20 not less than three months prior to the termination of the
21 probation period. The secretary of corrections will promulgate
22 rules and regulations for the conduct of the person during the term
23 of probation. For defendants found guilty in district court, like
24 functions as the secretary performs in regard to probation may be
25 performed by probation officers employed for that purpose by the
26 county legislative authority of the county wherein the court is
27 located.

28 **Sec. II.** RCW 9.92.060 and 1987 c 202 s 142 are each amended
29 to read as follows:

30 (1) Whenever any person shall be convicted of any crime except
31 murder, burglary in the first degree, arson in the first degree,
32 robbery, (~~earnal knowledge~~) rape of a (~~female~~) child (~~under~~
33 ~~the age of ten years~~)), or rape, the court may in its discretion,
34 at the time of imposing sentence upon such person, direct that such

1 sentence be stayed and suspended until otherwise ordered by such
2 court, and that the sentenced person may be placed under the charge
3 of a ~~((parole or peace officer during the term of such~~
4 ~~suspension,))~~ community corrections officer employed by the
5 department of corrections upon such terms as the court may
6 determine(~~(: PROVIDED, That))~~).

7 (2) As a condition to suspension of sentence, the court shall
8 require the payment of the penalty assessment required by RCW
9 7.68.035(~~(: PROVIDED FURTHER, That as a condition to suspension of~~
10 sentences)). In addition, the court may require the convicted
11 person to make such monetary payments, on such terms as the court
12 deems appropriate under the circumstances, as are necessary (~~((1))~~)
13 (a) to comply with any order of the court for the payment of family
14 support, (~~((2))~~) (b) to make restitution to any person or persons
15 who may have suffered loss or damage by reason of the commission of
16 the crime in question or when the offender pleads guilty to a
17 lesser offense or fewer offenses and agrees with the prosecutor's
18 recommendation that the offender be required to pay restitution to
19 a victim of an offense or offenses which are not prosecuted
20 pursuant to a plea agreement, (~~((3))~~) (c) to pay any fine imposed
21 and not suspended and the court or other costs incurred in the
22 prosecution of the case, including reimbursement of the state for
23 costs of extradition if return to this state by extradition was
24 required, and (~~((4))~~) (d) to contribute to a county or interlocal
25 drug fund. (~~(In no case shall a sentence be suspended under the~~
26 ~~provisions of this section unless the person if sentenced to~~
27 ~~confinement in a penal institution be placed under the charge of a~~
28 ~~parole officer, who is a duly appointed and acting officer of the~~
29 ~~institution to which the person is sentenced: PROVIDED, That~~
30 ~~persons convicted in district court may be placed under supervision~~
31 ~~of a probation officer employed for that purpose.))~~)

32 (3) As a condition of the suspended sentence, the court may
33 order the probationer to report to the secretary of corrections or
34 such officer as the secretary may designate and as a condition of
35 the probation to follow implicitly the instructions of the

1 secretary.

2 (4) If restitution to the victim has been ordered under
3 subsection (2)(b) of this section and the court has ordered
4 supervision, the officer supervising the probationer shall make a
5 reasonable effort to ascertain whether restitution has been made as
6 ordered. If the court has ordered supervision and restitution has
7 not been made, the officer shall inform the prosecutor of that
8 violation of the terms of the suspended sentence not less than
9 three months prior to the termination of the suspended sentence.

10 NEW SECTION. Sec. III. A new section is added to chapter
11 9.95 RCW to read as follows:

12 (1) The Washington state law and justice advisory council,
13 appointed under RCW 72.09.300(7), shall adopt standards for the
14 supervision of misdemeanor probationers sentenced by superior
15 courts under RCW 9.95.210 or 9.92.060. In developing the
16 standards, the council shall consider the recommendations of the
17 department of corrections, county probation departments, superior
18 and district court judges, and the misdemeanor corrections
19 association. The supervision standards shall establish
20 classifications of misdemeanor probationers based upon the
21 seriousness of the offense, the perceived risks to the community,
22 and other relevant factors. The standards may provide discretion
23 to officials supervising misdemeanor probationers to adjust the
24 supervision standards, for good cause, based upon individual
25 circumstances surrounding the probationer. The supervision
26 standards shall include provisions for reciprocal supervision of
27 offenders who are sentenced in counties other than their counties
28 of residence.

29 (2) If the department of corrections complies with the
30 standards of supervision adopted under subsection (1) of this
31 section, the department is not liable for any harm caused by the
32 actions of a misdemeanor probationer under its supervision.

33 NEW SECTION. Sec. IV. Before adopting the standards for

1 supervision of misdemeanant probationers sentenced by superior
2 courts under RCW 9.95.210 or 9.92.060, the Washington state law and
3 justice advisory council shall develop proposed standards by
4 October 1, 1995. The department of corrections shall report to the
5 legislature by December 1, 1995, the estimated cost of fully
6 implementing the proposed standards. The report shall rank by
7 relative costs each of the elements of the proposed standards and
8 shall identify the total daily supervision cost per offender. The
9 report shall also include an accounting of the amount of
10 supervision fees assessed and collected by the department under
11 section 5 of this act.

12 NEW SECTION. **Sec. V.** A new section is added to chapter 9.95
13 RCW to read as follows:

14 Whenever a defendant convicted of a misdemeanor or gross
15 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210,
16 and the defendant is supervised by the department of corrections,
17 the department may assess and collect from the defendant for the
18 duration of the term of supervision a monthly assessment not to
19 exceed one hundred dollars per month. This assessment shall be
20 paid to the department, and shall be applied, along with funds
21 appropriated by the legislature, toward the payment or part payment
22 of the cost of supervising the defendant."

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26 On page 1, line 1 of the title, after "probation;" strike the
27 remainder of the title and insert "amending RCW 9.95.210 and
28 9.92.060; adding new sections to chapter 9.95 RCW; and creating a
29 new section."

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