

2 SHB 2533 - 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 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9.95 RCW
8 to read as follows:

9 (1) When a superior court places a defendant convicted of a
10 misdemeanor or gross misdemeanor on probation and orders supervision
11 under RCW 9.92.060 or 9.95.210, the department of corrections has
12 initial responsibility for supervision of that defendant.

13 (2) A county legislative authority may assume responsibility for
14 the supervision of all defendants within its jurisdiction who have been
15 convicted of a misdemeanor or gross misdemeanor and sentenced to
16 probation by a superior court. The assumption of responsibility shall
17 be made by contract with the department of corrections on a biennial
18 basis.

19 (3) If a county assumes supervision responsibility, the county
20 shall supervise all superior court misdemeanant probationers within
21 that county for the duration of the biennium, as set forth in the
22 contract with the department of corrections.

23 (4) A contract between a county legislative authority and the
24 department of corrections for the transfer of supervision
25 responsibility must include, at a minimum, the following provisions:

26 (a) The county's agreement to supervise all misdemeanant
27 probationers who are sentenced by a superior court within that county
28 and who reside within that county;

29 (b) A reciprocal agreement regarding the supervision of superior
30 court misdemeanant probationers sentenced in one county but who reside
31 in another county;

32 (c) The county's agreement to comply with the minimum standards for
33 classification and supervision of offenders as required under section
34 2 of this act;

35 (d) The amount of funds available from the department of
36 corrections to the county for supervision of superior court

1 misdemeanor probationers, calculated according to a formula
2 established by the department of corrections;

3 (e) A method for the payment of funds by the department of
4 corrections to the county;

5 (f) The county's agreement that any funds received by the county
6 under the contract will be expended only to cover costs of supervision
7 of superior court misdemeanor probationers;

8 (g) The county's agreement to account to the department of
9 corrections for the expenditure of all funds received under the
10 contract and to submit to audits for compliance with the supervision
11 standards and financial requirements of this section;

12 (h) Provisions regarding rights and remedies in the event of a
13 possible breach of contract or default by either party; and

14 (i) Provisions allowing for voluntary termination of the contract
15 by either party, with good cause, after sixty days' written notice.

16 (5) If the contract between the county and the department of
17 corrections is terminated for any reason, the department of corrections
18 shall reassume responsibility for supervision of superior court
19 misdemeanor probationers within that county. In such an event, the
20 department of corrections retains any and all rights and remedies
21 available by law and under the contract.

22 (6) The department of corrections is immune from civil liability
23 for any harm caused by the actions of a superior court misdemeanor
24 probationer who is under the supervision of a county. A county is
25 immune from civil liability for any harm caused by the actions of a
26 superior court misdemeanor probationer who is under the supervision of
27 the department of corrections. The immunity granted under this section
28 applies regardless of whether the supervising agency is in compliance
29 with the standards of supervision at the time of the misdemeanor
30 probationer's actions.

31 (7) The department and its officials and employees, or in cases
32 where a county assumes supervision responsibility, the county and its
33 officials and employees, are immune from civil liability for any harm
34 arising out of the good faith performance of their duties and for any
35 harm caused by the actions of superior court misdemeanor probationers
36 under their supervision.

37 (8) If sufficient resources are not available for the department of
38 corrections, or the county assuming supervision responsibility, to
39 comply with the minimum standards of supervision required by section 2

1 of this act, the department of corrections, or the county, is immune
2 from civil liability for any harm caused by an inability to comply with
3 the standards of supervision.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.95 RCW
5 to read as follows:

6 (1) Probation supervision of misdemeanor offenders sentenced in a
7 superior court must be based upon an offender classification system and
8 supervision standards.

9 (2) Any entity under contract with the department of corrections
10 pursuant to section 1 of this act shall establish and maintain a
11 classification system that:

12 (a) Provides for a standardized assessment of offender risk;

13 (b) Differentiates between higher and lower risk offenders based on
14 criminal history and current offense;

15 (c) Assigns cases to a level of supervision based on assessed risk;

16 (d) Provides, at a minimum, three levels of supervision;

17 (e) Provides for periodic review of an offender's classification
18 level during the term of supervision; and

19 (f) Structures the discretion and decision making of supervising
20 officers.

21 (3) Any entity under contract with the department of corrections
22 pursuant to section 1 of this act may establish and maintain
23 supervision standards that:

24 (a) Identify the frequency and nature of offender contact within
25 each of at least three classification levels;

26 (b) Provide for a minimum of one face-to-face contact each month
27 with offenders classified at the highest level of risk;

28 (c) Provide for a minimum of one personal contact per quarter for
29 lower-risk offenders;

30 (d) Provide for specific reporting requirements for offenders
31 within each level of the classification system;

32 (e) Assign higher-risk offenders to staff trained to deal with
33 higher-risk offenders;

34 (f) Verify compliance with sentence conditions imposed by the
35 court; and

36 (g) Report to the court violations of sentence conditions as
37 appropriate.

1 (4) Under no circumstances may an entity under contract with the
2 department of corrections pursuant to section 1 of this act establish
3 or maintain supervision that is less stringent than that offered by the
4 department.

5 (5) The minimum supervision standards established and maintained by
6 the department of corrections shall provide for no less than one
7 contact per quarter for misdemeanor probationers under its
8 jurisdiction. The contact shall be a personal interaction accomplished
9 either face-to-face or by telephone, unless the department finds that
10 the individual circumstances of the offender do not require personal
11 interaction to meet the objectives of the supervision. The
12 circumstances under which the department may find that an offender does
13 not require personal interaction are limited to the following: (a) The
14 offender has no special conditions or crime-related prohibitions
15 imposed by the court other than legal financial obligations; and (b)
16 the offender poses minimal risk to public safety.

17 (6) The classification system and supervision standards must be
18 established and met within the resources available as provided for by
19 the legislature and the cost of supervision assessments collected, and
20 may be enhanced by funds otherwise generated by the supervising entity.

21 **Sec. 3.** RCW 9.95.210 and 1995 1st sp.s. c 19 s 29 are each amended
22 to read as follows:

23 (1) In granting probation, the superior court may suspend the
24 imposition or the execution of the sentence and may direct that the
25 suspension may continue upon such conditions and for such time as it
26 shall designate, not exceeding the maximum term of sentence or two
27 years, whichever is longer.

28 (2) In the order granting probation and as a condition thereof, the
29 superior court may in its discretion imprison the defendant in the
30 county jail for a period not exceeding one year and may fine the
31 defendant any sum not exceeding the statutory limit for the offense
32 committed, and court costs. As a condition of probation, the superior
33 court shall require the payment of the penalty assessment required by
34 RCW 7.68.035. The superior court may also require the defendant to
35 make such monetary payments, on such terms as it deems appropriate
36 under the circumstances, as are necessary: (a) To comply with any order
37 of the court for the payment of family support; (b) to make restitution
38 to any person or persons who may have suffered loss or damage by reason

1 of the commission of the crime in question or when the offender pleads
2 guilty to a lesser offense or fewer offenses and agrees with the
3 prosecutor's recommendation that the offender be required to pay
4 restitution to a victim of an offense or offenses which are not
5 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
6 imposed and court costs, including reimbursement of the state for costs
7 of extradition if return to this state by extradition was required; (d)
8 following consideration of the financial condition of the person
9 subject to possible electronic monitoring, to pay for the costs of
10 electronic monitoring if that monitoring was required by the court as
11 a condition of release from custody or as a condition of probation; (e)
12 to contribute to a county or interlocal drug fund; and (f) to make
13 restitution to a public agency for the costs of an emergency response
14 under RCW 38.52.430, and may require bonds for the faithful observance
15 of any and all conditions imposed in the probation.

16 (3) The superior court shall order restitution in all cases where
17 the victim is entitled to benefits under the crime victims'
18 compensation act, chapter 7.68 RCW. If the superior court does not
19 order restitution and the victim of the crime has been determined to be
20 entitled to benefits under the crime victims' compensation act, the
21 department of labor and industries, as administrator of the crime
22 victims' compensation program, may petition the superior court within
23 one year of imposition of the sentence for entry of a restitution
24 order. Upon receipt of a petition from the department of labor and
25 industries, the superior court shall hold a restitution hearing and
26 shall enter a restitution order.

27 (4) In granting probation, the superior court may order the
28 probationer to report to the secretary of corrections or such officer
29 as the secretary may designate and as a condition of the probation to
30 follow the instructions of the secretary. If the county legislative
31 authority has elected to assume responsibility for the supervision of
32 superior court misdemeanor probationers within its jurisdiction, the
33 superior court misdemeanor probationer shall report to a probation
34 officer employed or contracted for by the county. In cases where a
35 superior court misdemeanor probationer is sentenced in one county, but
36 resides within another county, there must be provisions for the
37 probationer to report to the agency having supervision responsibility
38 for the probationer's county of residence.

1 (5) If the probationer has been ordered to make restitution and the
2 superior court has ordered supervision, the officer supervising the
3 probationer shall make a reasonable effort to ascertain whether
4 restitution has been made. If the superior court has ordered
5 supervision and restitution has not been made as ordered, the officer
6 shall inform the prosecutor of that violation of the terms of probation
7 not less than three months prior to the termination of the probation
8 period. The secretary of corrections will promulgate rules and
9 regulations for the conduct of the person during the term of probation.
10 For defendants found guilty in district court, like functions as the
11 secretary performs in regard to probation may be performed by probation
12 officers employed for that purpose by the county legislative authority
13 of the county wherein the court is located.

14 **Sec. 4.** RCW 9.95.214 and 1995 1st sp.s. c 19 s 32 are each amended
15 to read as follows:

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

26 **Sec. 5.** RCW 9.92.060 and 1995 1st sp.s. c 19 s 30 are each amended
27 to read as follows:

28 (1) Whenever any person is convicted of any crime except murder,
29 burglary in the first degree, arson in the first degree, robbery, rape
30 of a child, or rape, the superior court may, in its discretion, at the
31 time of imposing sentence upon such person, direct that such sentence
32 be stayed and suspended until otherwise ordered by ~~((such))~~ the
33 superior court, and that the sentenced person be placed under the
34 charge of a community corrections officer employed by the department of
35 corrections, or if the county elects to assume responsibility for the
36 supervision of all superior court misdemeanant probationers a probation

1 officer employed or contracted for by the county, upon such terms as
2 the superior court may determine.

3 (2) As a condition to suspension of sentence, the superior court
4 shall require the payment of the penalty assessment required by RCW
5 7.68.035. In addition, the superior court may require the convicted
6 person to make such monetary payments, on such terms as the superior
7 court deems appropriate under the circumstances, as are necessary: (a)
8 To comply with any order of the court for the payment of family
9 support; (b) to make restitution to any person or persons who may have
10 suffered loss or damage by reason of the commission of the crime in
11 question or when the offender pleads guilty to a lesser offense or
12 fewer offenses and agrees with the prosecutor's recommendation that the
13 offender be required to pay restitution to a victim of an offense or
14 offenses which are not prosecuted pursuant to a plea agreement; (c) to
15 pay any fine imposed and not suspended and the court or other costs
16 incurred in the prosecution of the case, including reimbursement of the
17 state for costs of extradition if return to this state by extradition
18 was required; and (d) to contribute to a county or interlocal drug
19 fund.

20 (3) As a condition of the suspended sentence, the superior court
21 may order the probationer to report to the secretary of corrections or
22 such officer as the secretary may designate and as a condition of the
23 probation to follow the instructions of the secretary. If the county
24 legislative authority has elected to assume responsibility for the
25 supervision of superior court misdemeanor probationers within its
26 jurisdiction, the superior court misdemeanor probationer shall report
27 to a probation officer employed or contracted for by the county. In
28 cases where a superior court misdemeanor probationer is sentenced in
29 one county, but resides within another county, there must be provisions
30 for the probationer to report to the agency having supervision
31 responsibility for the probationer's county of residence.

32 (4) If restitution to the victim has been ordered under subsection
33 (2)(b) of this section and the superior court has ordered supervision,
34 the officer supervising the probationer shall make a reasonable effort
35 to ascertain whether restitution has been made as ordered. If the
36 superior court has ordered supervision and restitution has not been
37 made, the officer shall inform the prosecutor of that violation of the
38 terms of the suspended sentence not less than three months prior to the
39 termination of the suspended sentence.

1 **Sec. 6.** RCW 10.64.120 and 1991 c 247 s 3 are each amended to read
2 as follows:

3 (1) Every judge of a court of limited jurisdiction shall have the
4 authority to levy upon a person a monthly assessment not to exceed
5 ~~((fifty))~~ one hundred dollars for services provided whenever ~~((a))~~ the
6 person is referred by the court to the misdemeanant probation
7 department for evaluation or supervision services. The assessment may
8 also be made by a ~~((sentencing))~~ judge in superior court when such
9 misdemeanor or gross misdemeanor cases are heard in the superior court.

10 (2) For the purposes of this section the office of the
11 administrator for the courts shall define a probation department and
12 adopt rules for the qualifications of probation officers based on
13 occupational and educational requirements developed by an oversight
14 committee. This oversight committee shall include a representative
15 from the district and municipal court judges association, the
16 misdemeanant corrections association, the office of the administrator
17 for the courts, and associations of cities and counties. The oversight
18 committee shall consider qualifications that provide the training and
19 education necessary to (a) conduct presentencing and postsentencing
20 background investigations, including sentencing recommendations to the
21 court regarding jail terms, alternatives to incarceration, and
22 conditions of release; and (b) provide ongoing supervision and
23 assessment of offenders' needs and the risk they pose to the community.

24 (3) It shall be the responsibility of the probation services office
25 to implement local procedures approved by the court of limited
26 jurisdiction to ensure collection and payment of such fees into the
27 general fund of the city or county treasury.

28 ~~((+3))~~ (4) Revenues raised under this section shall be used to
29 fund programs for probation services and shall be in addition to those
30 funds provided in RCW 3.62.050.

31 **Sec. 7.** RCW 36.01.070 and 1967 c 200 s 9 are each amended to read
32 as follows:

33 Notwithstanding the provisions of chapter 72.01 RCW or any other
34 provision of law, counties may engage in probation and parole services
35 and employ personnel therefor under such terms and conditions as any
36 such county shall so determine. If a county elects to assume
37 responsibility for the supervision of superior court misdemeanor
38 offenders placed on probation under RCW 9.92.060 or 9.95.210, the

1 county may contract with other counties to receive or provide such
2 probation services. A county may also enter into partnership
3 agreements with the department of corrections under RCW 72.09.300."

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7 On page 1, line 1 of the title, after "services;" strike the
8 remainder of the title and insert "amending RCW 9.95.210, 9.95.214,
9 9.92.060, 10.64.120, and 36.01.070; and adding new sections to chapter
10 9.95 RCW."

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