

2 SSB 6208 - S AMD - 112
3 By Senators Hargrove and Long

4 ADOPTED 2/12/96

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
8 RCW 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
15 been convicted of a misdemeanor or gross misdemeanor and sentenced to
16 probation by a superior court. The assumption of responsibility
17 shall be made by contract with the department of corrections on a
18 biennial 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
31 reside in another county;

32 (c) The county's agreement to comply with the minimum standards
33 for classification and supervision of offenders as required under
34 section 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
7 supervision 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
18 corrections shall reassume responsibility for supervision of superior
19 court misdemeanor probationers within that county. In such an
20 event, the department of corrections retains any and all rights and
21 remedies 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
27 of the department of corrections. The immunity granted under this
28 section applies regardless of whether the supervising agency is in
29 compliance with the standards of supervision at the time of the
30 misdemeanor 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
36 probationers under their supervision.

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

1 2 of this act, the department of corrections, or the county, is
2 immune from civil liability for any harm caused by an inability to
3 comply with 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
7 a superior court must be based upon an offender classification system
8 and 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
14 on criminal history and current offense;

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

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

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

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

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

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

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

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

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

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

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

37 (g) Report to the court violations of sentence conditions as
38 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
4 the department.

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

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

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

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

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

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

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

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

1 probationer to report to the agency having supervision responsibility
2 for the probationer's county of residence.

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

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

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

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

31 (1) Whenever any person is convicted of any crime except murder,
32 burglary in the first degree, arson in the first degree, robbery,
33 rape of a child, or rape, the superior court may, in its discretion,
34 at the time of imposing sentence upon such person, direct that such
35 sentence be stayed and suspended until otherwise ordered by ((such))
36 the superior court, and that the sentenced person be placed under the
37 charge of a community corrections officer employed by the department

1 of corrections, or if the county elects to assume responsibility for
2 the supervision of all superior court misdemeanor probationers a
3 probation officer employed or contracted for by the county, upon such
4 terms as the superior court may determine.

5 (2) As a condition to suspension of sentence, the superior court
6 shall require the payment of the penalty assessment required by RCW
7 7.68.035. In addition, the superior court may require the convicted
8 person to make such monetary payments, on such terms as the superior
9 court deems appropriate under the circumstances, as are necessary:

10 (a) To comply with any order of the court for the payment of family
11 support; (b) to make restitution to any person or persons who may
12 have suffered loss or damage by reason of the commission of the crime
13 in question or when the offender pleads guilty to a lesser offense or
14 fewer offenses and agrees with the prosecutor's recommendation that
15 the offender be required to pay restitution to a victim of an offense
16 or offenses which are not prosecuted pursuant to a plea agreement;
17 (c) to pay any fine imposed and not suspended and the court or other
18 costs incurred in the prosecution of the case, including
19 reimbursement of the state for costs of extradition if return to this
20 state by extradition was required; and (d) to contribute to a county
21 or interlocal drug fund.

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

34 (4) If restitution to the victim has been ordered under
35 subsection (2)(b) of this section and the superior court has ordered
36 supervision, the officer supervising the probationer shall make a
37 reasonable effort to ascertain whether restitution has been made as
38 ordered. If the superior court has ordered supervision and
39 restitution has not been made, the officer shall inform the

1 prosecutor of that violation of the terms of the suspended sentence
2 not less than three months prior to the termination of the suspended
3 sentence.

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

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

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

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

33 ~~((+3))~~ (4) Revenues raised under this section shall be used to
34 fund programs for probation services and shall be in addition to
35 those funds provided in RCW 3.62.050.

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

