

HOUSE BILL REPORT

HB 1357

As Reported By House Committee On:
Corrections

Title: An act relating to supervision of offenders placed on probation.

Brief Description: Authorizing counties to supervise misdemeanor offenders placed on probation.

Sponsors: Representatives Ballasiotes, Sherstad, Cole, Costa, Blanton, Quall, Veloria, Radcliff, Campbell and Dickerson.

Brief History:

Committee Activity:

Corrections: 2/8/95, 2/24/95 [DPS].

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Sherstad, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; K. Schmidt and Schoesler.

Staff: Rick Neidhardt (786-7841).

Background: In general, the Department of Corrections (DOC) is responsible for supervising felony offenders when sentences are imposed in superior court, while the counties are responsible for supervising misdemeanants and gross misdemeanants when sentences are imposed in district court.

Historically, DOC has also supervised misdemeanants and gross misdemeanants for sentences imposed in superior court. Statutes that were enacted prior to the adoption of the Sentencing Reform Act placed this responsibility on DOC.

During the 1994 legislative session, a proviso was added to the budget that prohibited DOC from supervising these misdemeanants and gross misdemeanants who were sentenced in Superior Court. Counties objected when DOC took steps to implement this change after the session was over. The counties argued that DOC still had the

responsibility for supervising these offenders because the substantive statutes were not amended.

The counties and DOC began discussing alternative ways in which these supervision duties could be handled. In the meantime, the governor ordered DOC to continue supervising these offenders while another solution was being negotiated.

The Washington State Law and Justice Advisory Council, a coalition of representatives from state and local agencies, became involved in the discussion and has proposed a solution for legislative consideration.

Summary of Substitute Bill: When superior court judges order supervision of a misdemeanor or gross misdemeanor, responsibility for the supervision falls initially on DOC.

Counties, however, may elect to perform their own supervision of these offenders for a particular biennium. A county making this election enters into a contract with DOC. Under the contract, counties can receive funding that must be used in supervising these offenders. The amount of the funds will be determined according to a formula based on the county's population, estimates of the cost of supervision, and the size of the legislature's appropriation to DOC for purposes of supervising these offenders.

The Washington State Law and Justice Advisory Council must develop standards for supervising these offenders based on recommendations it receives from DOC, county probation departments, superior and district court judges and the Misdemeanant Corrections Association. The standards are to include provisions for reciprocal supervision of offenders who were sentenced in a county other than where they live. The standards are to take into account the available resources for funding the supervision.

Any county electing to conduct its own supervision of these offenders must agree to comply with these standards. DOC may decline to provide funds to any county that consistently fails to meet these standards, and DOC must then assume the county's supervision responsibility. Counties electing to take over supervision of these offenders may contract with other counties to perform these duties.

Superior court judges are no longer required to order supervision for misdemeanants and gross misdemeanants who receive suspended sentences. This decision will be left to judicial discretion.

The supervising entity, whether it is DOC or a county, is authorized to assess and collect monthly supervision fees from these offenders. The fees cannot exceed \$100 per month.

If the Legislature appropriates additional funds during a biennium for supervising these offenders, DOC will distribute proportionate shares to the counties that have elected to supervise these offenders.

Substitute Bill Compared to Original Bill: Under the original bill, supervision standards were to be developed by DOC in consultation with other agencies. The substitute bill shifts this responsibility to the Washington State Law and Justice Advisory Council, which makes its decision after receiving recommendations from DOC and the other agencies.

The original bill did not expressly require DOC to share any additional legislative appropriations with the counties that elect to supervise these offenders.

The original bill provided that DOC could decline to provide funding for a county that consistently fails to meet the standards, but the language in the original bill was limited to declining to provide funding in a future biennium.

The original bill's provision authorizing assessment of supervision fees was limited to giving authority to DOC.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many of the misdemeanors and gross misdemeanors being sentenced in superior court are serious and require supervision. Many of the cases involve domestic violence or other assaults. This bill gives the counties the option of local control. State and local entities have negotiated a good solution to a difficult problem. This solution promotes efficiency and fiscal responsibility.

Testimony Against: Concerns expressed about the original bill included the following: The Legislature needs to increase the appropriation in order to support adequate levels of supervision. The state's authority to assess fees against the offenders should be extended to the counties as well. There is a potential problem of probationers moving from county to county. The Department of Corrections should immediately terminate county contracts when a county is not complying with the supervision standards.

Testified: Judge John McCarthy, Washington State Law and Justice Advisory Council (pro); Martha Harden, Superior Court Judges Association (pro, with concerns); Jane Johnson, Clark County Corrections (con); William Cobb,

Misdemeanor Corrections Association (pro, with concerns); Donna Karvia, Lewis County Clerk's Office (pro, with concerns); Dave Savage, Department of Corrections (pro); Art DeFelice (pro, with concerns); Jon Taylor, Washington State Association of Counties (pro); and Larry Erickson, Washington Association of Sheriffs and Police Chiefs (pro).