

FINAL BILL REPORT

SHB 2533

C 298 L 96

Synopsis as Enacted

Brief Description: Revising misdemeanor probation programs.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Hickel, Sheahan, Cody, Sterk, Smith, Morris and Dellwo).

House Committee on Law & Justice
Senate Committee on Human Services & Corrections

Background: Probation is a sentencing option available to impose against a person found guilty of a crime. Probation may be ordered in addition to or in lieu of any other penalty, including imprisonment. An offender sentenced to probation must meet certain conditions of probation set by the court. An offender sentenced to probation must report to a probation officer and must follow the instructions of the probation officer.

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

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

During the 1994 legislative session, a proviso was added to the budget that prohibited the DOC from supervising misdemeanants and gross misdemeanants who were sentenced in superior court. Counties objected when the DOC took steps to implement this change after the session ended. The counties argued that the DOC still had the responsibility for supervising these offenders because the substantive statutes were not amended.

The counties and the DOC began discussing alternative ways in which these supervision duties could be handled. In the meantime, the Governor ordered the 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 proposed a solution for legislative consideration.

Municipal and district court judges may impose a monthly assessment of not more than \$50 on persons referred to local probation departments. In 1995, the Legislature increased the fee that the DOC may impose on probationers under its jurisdiction to \$100.

Summary: The Department of Corrections is to assume the supervision of misdemeanor sentenced in superior court. When a superior court judge orders supervision of a misdemeanor or gross misdemeanor, responsibility for the supervision falls initially on the DOC. Counties, however, may elect to perform their own supervision of these offenders for a particular biennium. A county making this election will enter into a contract with the DOC. Under such contracts, counties may receive funding from the DOC that must be used in supervising these offenders. The amount of the funds will be determined according to a formula established by the DOC.

Any county that contracts with the DOC to supervise superior court misdemeanor must establish and maintain classification and supervision standards that meet specified minimum requirements. A county's standards may not be less stringent than those required by the DOC. The standards are to be met and may be adjusted, within resources appropriated by the Legislature and supplemented by fee collections.

The state of Washington and the DOC and its employees, community corrections officers, and volunteers are not liable for any harm caused by the actions of a superior court probationer who is under the supervision of a county. A county and its probation department, probation officers, and volunteers are not liable for any harm caused by a superior court misdemeanor who is under the supervision of the DOC. The DOC and any county probation department under contract with the DOC and their employees, community corrections officers, and probation officers are not liable for civil damages resulting from an act or omission unless the act or omission constitutes gross negligence.

The provision of law allowing a referral assessment for probation services is amended to clarify the language. The maximum monthly fee that a judge of a municipal or district court may levy upon a person when the person is referred to the misdemeanor probation department for evaluation or services is increased from \$50 to \$100.

The Office of the Administrator for the Courts (OAC) is directed to define a probation department and to adopt rules for the qualifications of probation officers. These rules are to be developed by an oversight committee consisting of

representatives of district and municipal courts, the misdemeanor corrections association, OAC, and cities and counties. The oversight committee is directed to consider the qualifications needed to ensure that probation officers have the training and education necessary to conduct pre-sentencing and post-sentencing recommendations and to provide ongoing supervision and assessment of offenders' needs and the risk the offenders pose to the community.

Technical and clarifying amendments are made.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 6, 1996