

SENATE BILL REPORT

ESSB 5970

As Passed Senate, March 14, 2001

Title: An act relating to probation orders.

Brief Description: Revising provisions for probation orders.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senator Hargrove).

Brief History:

Committee Activity: Judiciary: 2/19/01, 2/27/01 [DPS].

Passed Senate: 3/14/01, 44-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5970 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Costa, Hargrove, Long, McCaslin and Roach.

Staff: Lilah Amos (786-7421)

Background: Persons convicted of gross misdemeanor and misdemeanor crimes can have their sentences suspended for a maximum of two years of probation. Previously, courts tolled the two-year period of the suspended sentence when a defendant failed to appear for a required court hearing or to serve a sentence. A recent case from the Court of Appeals, Division III, *Spokane v. Marquette*, Docket Number 18820-5-III, filed December 21, 2000, has held that orders tolling the probation time due to a defendant's failure to appear are invalid. Prosecuting attorneys have expressed a need for a statute authorizing courts to toll the time during which the sentence is suspended if the defendant has failed to appear for a hearing in order to effectively enforce treatment and other sentence provisions for persons convicted of gross misdemeanors and misdemeanors. Unless the Division III case is overturned on appeal, courts will have no jurisdiction to enforce a suspended sentence if the defendant is able to evade law enforcement for the two-year period of the suspended sentence.

Summary of Bill: District and municipal courts are directed to toll the probation term of misdemeanor and gross misdemeanor defendants who fail to appear for any court hearing. The tolling continues until the defendant appears in court and makes his or her presence known to the court. The statute governing municipal court jurisdiction is also amended to conform to district court provisions allowing a court to revoke a suspended sentence at any time before an order terminating probation is entered.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: A recent appellate court case has prohibited courts from tolling the portions of a two-year suspended or deferred sentence during the time the defendant has failed to appear as required by the court. This results in loss of jurisdiction over many defendants when the two-year probationary period has expired. Courts need a way to toll the probationary period so that the court's sentencing requirements can be enforced when the defendant reappears.

Testimony Against: None.

Testified: Judge Peter Lukevich, District & Municipal Court Judges' Assn.; William Fleck, Forks City Attorney.