

---

**ENGROSSED SUBSTITUTE HOUSE BILL 1402**

---

**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Criminal Justice & Corrections (originally sponsored by Representative O'Brien; by request of Sentencing Guidelines Commission)

READ FIRST TIME 02/18/05.

1        AN ACT Relating to supervision of offenders who travel or transfer  
2 to or from another state; amending RCW 9.95.204, 9.95.214, 35.20.255,  
3 and 10.64.120; adding a new section to chapter 9.94A RCW; adding a new  
4 section to chapter 3.66 RCW; adding a new section to chapter 3.50 RCW;  
5 creating a new section; providing an effective date; and declaring an  
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8        NEW SECTION.    **Sec. 1.** A new section is added to chapter 9.94A RCW  
9 to read as follows:

10        (1) The department may supervise nonfelony offenders transferred to  
11 Washington pursuant to RCW 9.94A.745, the interstate compact for adult  
12 offender supervision, and shall supervise these offenders according to  
13 the provisions of this chapter.

14        (2) The department shall process applications for interstate  
15 transfer of felony and nonfelony offenders pursuant to RCW 9.94A.745,  
16 the interstate compact for adult offender supervision, and may charge  
17 offenders a reasonable fee for processing the application.

1       **Sec. 2.** RCW 9.95.204 and 1996 c 298 s 1 are each amended to read  
2 as follows:

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

7       (2) A county legislative authority may assume responsibility for  
8 the supervision of all defendants within its jurisdiction who have been  
9 convicted of a misdemeanor or gross misdemeanor and sentenced to  
10 probation by a superior court. The assumption of responsibility shall  
11 be made by contract with the department of corrections on a biennial  
12 basis.

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

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

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

23       (b) A reciprocal agreement regarding the supervision of superior  
24 court misdemeanant probationers sentenced in one county but who reside  
25 in another county;

26       (c) The county's agreement to comply with the minimum standards for  
27 classification and supervision of offenders as required under RCW  
28 9.95.206;

29       (d) The amount of funds available from the department of  
30 corrections to the county for supervision of superior court  
31 misdemeanant probationers, calculated according to a formula  
32 established by the department of corrections;

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

35       (f) The county's agreement that any funds received by the county  
36 under the contract will be expended only to cover costs of supervision  
37 of superior court misdemeanant probationers;

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

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

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

9 (5) If the contract between the county and the department of  
10 corrections is terminated for any reason, the department of corrections  
11 shall reassume responsibility for supervision of superior court  
12 misdemeanor probationers within that county. In such an event, the  
13 department of corrections retains any and all rights and remedies  
14 available by law and under the contract.

15 (6) The state of Washington, the department of corrections and its  
16 employees, community corrections officers, and volunteers who assist  
17 community corrections officers are not liable for any harm caused by  
18 the actions of a superior court misdemeanor probationer who is under  
19 the supervision of a county. A county, its probation department and  
20 employees, probation officers, and volunteers who assist probation  
21 officers are not liable for any harm caused by the actions of a  
22 superior court misdemeanor probationer who is under the supervision of  
23 the department of corrections. This subsection applies regardless of  
24 whether the supervising entity is in compliance with the standards of  
25 supervision at the time of the misdemeanor probationer's actions.

26 (7) The state of Washington, the department of corrections and its  
27 employees, community corrections officers, any county under contract  
28 with the department of corrections pursuant to this section and its  
29 employees, probation officers, and volunteers who assist community  
30 corrections officers and probation officers in the superior court  
31 misdemeanor probation program are not liable for civil damages  
32 resulting from any act or omission in the rendering of superior court  
33 misdemeanor probation activities unless the act or omission  
34 constitutes gross negligence. For purposes of this section,  
35 "volunteers" is defined according to RCW 51.12.035.

36 (8)(a) If a misdemeanor probationer requests permission to travel  
37 or transfer to another state, the assigned probation officer employed  
38 or contracted for by the county shall determine whether such request is

1 subject to RCW 9.94A.745, the interstate compact for adult offender  
2 supervision. If such request is subject to the compact, the probation  
3 officer shall:

4 (i) Notify the department of corrections of the probationer's  
5 request;

6 (ii) Provide the department of corrections with the supporting  
7 documentation it requests for processing an application for transfer;

8 (iii) Notify the probationer of the fee due to the department of  
9 corrections for processing an application under the compact;

10 (iv) Cease supervision of the probationer while another state  
11 supervises the probationer pursuant to the compact;

12 (v) Resume supervision if the probationer returns to this state  
13 before the term of probation expires.

14 (b) The probationer shall receive credit for time served while  
15 being supervised by another state.

16 **Sec. 3.** RCW 9.95.214 and 1996 c 298 s 4 are each amended to read  
17 as follows:

18 Whenever a defendant convicted of a misdemeanor or gross  
19 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and  
20 the defendant is supervised by the department of corrections or a  
21 county probation department, the department or county probation  
22 department may assess and collect from the defendant for the duration  
23 of the term of supervision a monthly assessment not to exceed one  
24 hundred dollars per month. This assessment shall be paid to the agency  
25 supervising the defendant and shall be applied, along with funds  
26 appropriated by the legislature, toward the payment or part payment of  
27 the cost of supervising the defendant. The department or county  
28 probation department shall suspend such assessment while the defendant  
29 is being supervised by another state pursuant to RCW 9.94A.745, the  
30 interstate compact for adult offender supervision.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 3.66 RCW  
32 to read as follows:

33 (1) If a person placed on probation for a misdemeanor or gross  
34 misdemeanor by a district court requests permission to travel or  
35 transfer to another state, the assigned probation officer shall

1 determine whether such request is subject to RCW 9.94A.745, the  
2 interstate compact for adult offender supervision. If such request is  
3 subject to the compact, the probation officer shall:

4 (a) Notify the department of corrections of the probationer's  
5 request;

6 (b) Provide the department of corrections with the supporting  
7 documentation it requests for processing an application for transfer;

8 (c) Notify the probationer of the fee due to the department of  
9 corrections for processing an application under the compact;

10 (d) Cease supervision of the probationer while another state  
11 supervises the probationer pursuant to the compact;

12 (e) Resume supervision if the probationer returns to this state  
13 before the term of probation expires.

14 (2) The probationer shall receive credit for time served while  
15 being supervised by another state.

16 (3) If the probationer is returned to the state at the request of  
17 the receiving state under rules of the interstate compact, the  
18 department of corrections shall be responsible for the cost of  
19 returning the probationer.

20 **Sec. 5.** RCW 35.20.255 and 2001 c 94 s 3 are each amended to read  
21 as follows:

22 (1) Judges of the municipal court, in their discretion, shall have  
23 the power in all criminal proceedings within their jurisdiction  
24 including violations of city ordinances, to defer imposition of any  
25 sentence, suspend all or part of any sentence including installment  
26 payment of fines, fix the terms of any such deferral or suspension, and  
27 provide for such probation as in their opinion is reasonable and  
28 necessary under the circumstances of the case, but in no case shall it  
29 extend for more than five years from the date of conviction for a  
30 defendant to be sentenced under RCW 46.61.5055 and two years from the  
31 date of conviction for all other offenses. A defendant who has been  
32 sentenced, or whose sentence has been deferred, and who then fails to  
33 appear for any hearing to address the defendant's compliance with the  
34 terms of probation when ordered to do so by the court, shall have the  
35 term of probation tolled until such time as the defendant makes his or  
36 her presence known to the court on the record. However, the  
37 jurisdiction period in this section does not apply to the enforcement

1 of orders issued under RCW 46.20.720. Any time before entering an  
2 order terminating probation, the court may modify or revoke its order  
3 suspending or deferring the imposition or execution of the sentence.

4 (2)(a) If a defendant whose sentence has been deferred requests  
5 permission to travel or transfer to another state, the director of  
6 probation services or a designee thereof shall determine whether such  
7 request is subject to RCW 9.94A.745, the interstate compact for adult  
8 offender supervision. If such request is subject to the compact, the  
9 director or designee shall:

10 (i) Notify the department of corrections of the defendant's  
11 request;

12 (ii) Provide the department of corrections with the supporting  
13 documentation it requests for processing an application for transfer;

14 (iii) Notify the defendant of the fee due to the department of  
15 corrections for processing an application under the compact;

16 (iv) Cease supervision of the defendant while another state  
17 supervises the defendant pursuant to the compact;

18 (v) Resume supervision if the defendant returns to this state  
19 before the period of deferral expires.

20 (b) The defendant shall receive credit for time served while being  
21 supervised by another state.

22 (c) If the probationer is returned to the state at the request of  
23 the receiving state under rules of the interstate compact, the  
24 department of corrections shall be responsible for the cost of  
25 returning the probationer.

26 NEW SECTION. Sec. 6. A new section is added to chapter 3.50 RCW  
27 to read as follows:

28 (1) If a person placed on probation for a misdemeanor or gross  
29 misdemeanor by a municipal court requests permission to travel or  
30 transfer to another state, the assigned probation officer shall  
31 determine whether such request is subject to RCW 9.94A.745, the  
32 interstate compact for adult offender supervision. If such request is  
33 subject to the compact, the probation officer shall:

34 (a) Notify the department of corrections of the probationer's  
35 request;

36 (b) Provide the department of corrections with the supporting  
37 documentation it requests for processing an application for transfer;

1 (c) Notify the probationer of the fee due to the department of  
2 corrections for processing an application under the compact;

3 (d) Cease supervision of the probationer while another state  
4 supervises the probationer pursuant to the compact;

5 (e) Resume supervision if the probationer returns to this state  
6 before the term of probation expires.

7 (2) The probationer shall receive credit for time served while  
8 being supervised by another state.

9 (3) If the probationer is returned to the state at the request of  
10 the receiving state under rules of the interstate compact, the  
11 department of corrections shall be responsible for the cost of  
12 returning the probationer.

13 **Sec. 7.** RCW 10.64.120 and 1996 c 298 s 6 are each amended to read  
14 as follows:

15 (1) Every judge of a court of limited jurisdiction shall have the  
16 authority to levy upon a person a monthly assessment not to exceed one  
17 hundred dollars for services provided whenever the person is referred  
18 by the court to the misdemeanor probation department for evaluation or  
19 supervision services. The assessment may also be made by a judge in  
20 superior court when such misdemeanor or gross misdemeanor cases are  
21 heard in the superior court.

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

36 (3) It shall be the responsibility of the probation services office

1 to implement local procedures approved by the court of limited  
2 jurisdiction to ensure collection and payment of such fees into the  
3 general fund of the city or county treasury.

4 (4) Revenues raised under this section shall be used to fund  
5 programs for probation services and shall be in addition to those funds  
6 provided in RCW 3.62.050.

7 (5) Assessments and fees levied upon a probationer under this  
8 section shall be suspended while the probationer is being supervised by  
9 another state pursuant to RCW 9.94A.745, the interstate compact for  
10 adult offender supervision.

11 NEW SECTION. Sec. 8. This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 July 1, 2005.

15 NEW SECTION. Sec. 9. This act applies to offenders sentenced  
16 before, on, or after the effective date of this act.

--- END ---