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HOUSE BILL 1402

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State of Washington

59th Legislature

2005 Regular Session

By Representative O'Brien; by request of Sentencing Guidelines Commission

Read first time 01/24/2005. Referred to Committee on Criminal Justice & Corrections.

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, 10.05.170,  
3 and 35.20.255; and adding a new section to chapter 9.94A RCW.

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

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

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

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

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

17 (1) When a superior court places a defendant convicted of a

1 misdemeanor or gross misdemeanor on probation and orders supervision  
2 under RCW 9.92.060 or 9.95.210, the department of corrections has  
3 initial responsibility for supervision of that defendant.

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

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

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

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

20 (b) A reciprocal agreement regarding the supervision of superior  
21 court misdemeanant probationers sentenced in one county but who reside  
22 in another county;

23 (c) The county's agreement to comply with the minimum standards for  
24 classification and supervision of offenders as required under RCW  
25 9.95.206;

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

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

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

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

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

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

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

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

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

32 (8)(a) If a misdemeanor probationer requests permission to travel  
33 or transfer to another state, the assigned probation officer employed  
34 or contracted for by the county shall determine whether such request is  
35 subject to RCW 9.94A.745, the interstate compact for adult offender  
36 supervision. If such request is subject to the compact, the probation  
37 officer shall:

1 (i) Notify the department of corrections of the probationer's  
2 request;

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

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

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

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

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

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

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

28 **Sec. 4.** RCW 10.05.170 and 1991 c 247 s 2 are each amended to read  
29 as follows:

30 As a condition of granting deferred prosecution, the court may  
31 order supervision of the petitioner during the period of deferral and  
32 may levy a monthly assessment upon the petitioner as provided in RCW  
33 10.64.120. The court shall suspend such assessment while the  
34 petitioner is being supervised by another state pursuant to RCW  
35 9.94A.745, the interstate compact for adult offender supervision. In  
36 a jurisdiction with a probation department, the court may appoint the

1 probation department to supervise the petitioner. In a jurisdiction  
2 without a probation department, the court may appoint an appropriate  
3 person or agency to supervise the petitioner. A supervisor appointed  
4 under this section shall be required to do at least the following:

5 (1) If the charge for which deferral is granted relates to  
6 operation of a motor vehicle, at least once every six months request  
7 from the department of licensing an abstract of the petitioner's  
8 driving record; ~~((and))~~

9 (2) At least once every month make contact with the petitioner or  
10 with any agency to which the petitioner has been directed for treatment  
11 as a part of the deferral; and

12 (3)(a) If a petitioner requests permission to travel or transfer to  
13 another state, determine whether such request is subject to RCW  
14 9.94A.745, the interstate compact for adult offender supervision. If  
15 such request is subject to the compact, the supervisor shall:

16 (i) Notify the department of corrections of the petitioner's  
17 request;

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

20 (iii) Notify the petitioner of the fee due to the department of  
21 corrections for processing an application under the compact;

22 (iv) Cease supervision of the petitioner while another state  
23 supervises the petitioner pursuant to the compact;

24 (v) Resume supervision if the petitioner returns to this state  
25 before the period of deferral expires.

26 (b) The petitioner shall receive credit for time served while being  
27 supervised by another state.

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

30 (1) Judges of the municipal court, in their discretion, shall have  
31 the power in all criminal proceedings within their jurisdiction  
32 including violations of city ordinances, to defer imposition of any  
33 sentence, suspend all or part of any sentence including installment  
34 payment of fines, fix the terms of any such deferral or suspension, and  
35 provide for such probation as in their opinion is reasonable and  
36 necessary under the circumstances of the case, but in no case shall it  
37 extend for more than five years from the date of conviction for a

1 defendant to be sentenced under RCW 46.61.5055 and two years from the  
2 date of conviction for all other offenses. A defendant who has been  
3 sentenced, or whose sentence has been deferred, and who then fails to  
4 appear for any hearing to address the defendant's compliance with the  
5 terms of probation when ordered to do so by the court, shall have the  
6 term of probation tolled until such time as the defendant makes his or  
7 her presence known to the court on the record. However, the  
8 jurisdiction period in this section does not apply to the enforcement  
9 of orders issued under RCW 46.20.720. Any time before entering an  
10 order terminating probation, the court may modify or revoke its order  
11 suspending or deferring the imposition or execution of the sentence.

12 (2)(a) If a defendant whose sentence has been deferred requests  
13 permission to travel or transfer to another state, the director of  
14 probation services or a designee thereof shall determine whether such  
15 request is subject to RCW 9.94A.745, the interstate compact for adult  
16 offender supervision. If such request is subject to the compact, the  
17 director or designee shall:

18 (i) Notify the department of corrections of the defendant's  
19 request;

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

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

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

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

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

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