

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1402

59th Legislature
2005 Regular Session

Passed by the House April 18, 2005
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 12, 2005
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1402** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1402

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

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 one year or more for a
34 misdemeanor or gross misdemeanor by a district court requests
35 permission to travel or transfer to another state, the assigned

1 probation officer shall determine whether such request is subject to
2 RCW 9.94A.745, the interstate compact for adult offender supervision.
3 If such request is 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 for adult
18 offender supervision, the department of corrections is responsible for
19 the cost of returning the probationer.

20 (4) The state of Washington, the department of corrections and its
21 employees, and any county and its employees are not liable for civil
22 damages resulting from any act or omission authorized or required under
23 this section unless the act or omission constitutes gross negligence.

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

26 (1) Judges of the municipal court, in their discretion, shall have
27 the power in all criminal proceedings within their jurisdiction
28 including violations of city ordinances, to defer imposition of any
29 sentence, suspend all or part of any sentence including installment
30 payment of fines, fix the terms of any such deferral or suspension, and
31 provide for such probation as in their opinion is reasonable and
32 necessary under the circumstances of the case, but in no case shall it
33 extend for more than five years from the date of conviction for a
34 defendant to be sentenced under RCW 46.61.5055 and two years from the
35 date of conviction for all other offenses. A defendant who has been
36 sentenced, or whose sentence has been deferred, and who then fails to
37 appear for any hearing to address the defendant's compliance with the

1 terms of probation when ordered to do so by the court, shall have the
2 term of probation tolled until such time as the defendant makes his or
3 her presence known to the court on the record. However, the
4 jurisdiction period in this section does not apply to the enforcement
5 of orders issued under RCW 46.20.720. Any time before entering an
6 order terminating probation, the court may modify or revoke its order
7 suspending or deferring the imposition or execution of the sentence.

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

14 (i) Notify the department of corrections of the defendant's
15 request;

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

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

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

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

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

26 (c) If the probationer is returned to the state at the request of
27 the receiving state under rules of the interstate compact for adult
28 offender supervision, the department of corrections is responsible for
29 the cost of returning the probationer.

30 (d) The state of Washington, the department of corrections and its
31 employees, and any city and its employees are not liable for civil
32 damages resulting from any act or omission authorized or required under
33 this section unless the act or omission constitutes gross negligence.

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

36 (1) If a person placed on probation for one year or more for a
37 misdemeanor or gross misdemeanor by a municipal court requests

1 permission to travel or transfer to another state, the assigned
2 probation officer shall determine whether such request is subject to
3 RCW 9.94A.745, the interstate compact for adult offender supervision.
4 If such request is subject to the compact, the probation officer shall:

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

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

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

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

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

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

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

21 (4) The state of Washington, the department of corrections and its
22 employees, and any city and its employees are not liable for civil
23 damages resulting from any act or omission authorized or required under
24 this section unless the act or omission constitutes gross negligence.

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

27 (1) Every judge of a court of limited jurisdiction shall have the
28 authority to levy upon a person a monthly assessment not to exceed one
29 hundred dollars for services provided whenever the person is referred
30 by the court to the misdemeanor probation department for evaluation or
31 supervision services. The assessment may also be made by a judge in
32 superior court when such misdemeanor or gross misdemeanor cases are
33 heard in the superior court.

34 (2) For the purposes of this section the office of the
35 administrator for the courts shall define a probation department and
36 adopt rules for the qualifications of probation officers based on
37 occupational and educational requirements developed by an oversight

1 committee. This oversight committee shall include a representative
2 from the district and municipal court judges association, the
3 misdemeanor corrections association, the office of the administrator
4 for the courts, and associations of cities and counties. The oversight
5 committee shall consider qualifications that provide the training and
6 education necessary to (a) conduct presentencing and postsentencing
7 background investigations, including sentencing recommendations to the
8 court regarding jail terms, alternatives to incarceration, and
9 conditions of release; and (b) provide ongoing supervision and
10 assessment of offenders' needs and the risk they pose to the community.

11 (3) It shall be the responsibility of the probation services office
12 to implement local procedures approved by the court of limited
13 jurisdiction to ensure collection and payment of such fees into the
14 general fund of the city or county treasury.

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

18 (5) Assessments and fees levied upon a probationer under this
19 section must be suspended while the probationer is being supervised by
20 another state under RCW 9.94A.745, the interstate compact for adult
21 offender supervision.

22 NEW SECTION. Sec. 8. This act applies to offenders sentenced
23 before, on, or after the effective date of this act.

24 NEW SECTION. Sec. 9. This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 July 1, 2005.

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