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HOUSE BILL 2605

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State of Washington

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2018 Regular Session

By Representatives Irwin and Macri

Read first time 01/11/18. Referred to Committee on Judiciary.

1 AN ACT Relating to misdemeanor supervision services by limited  
2 jurisdiction courts; amending RCW 4.24.760, 39.34.180, and 70.48.090;  
3 and reenacting and amending RCW 10.64.120.

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

5 **Sec. 1.** RCW 4.24.760 and 2007 c 174 s 2 are each amended to read  
6 as follows:

7 (1) A limited jurisdiction court that provides misdemeanor  
8 supervision services is not liable for civil damages based on the  
9 inadequate supervision or monitoring of a misdemeanor defendant or  
10 probationer unless the inadequate supervision or monitoring  
11 constitutes gross negligence.

12 (2) For the purposes of this section:

13 (a) "Limited jurisdiction court" means a district court or a  
14 municipal court, and anyone acting or operating at the direction of  
15 such court, including but not limited to its officers, employees,  
16 agents, contractors, (~~and~~) volunteers, and others acting pursuant  
17 to an interlocal agreement.

18 (b) "Misdemeanant supervision services" means preconviction or  
19 postconviction misdemeanor probation or supervision services, or the  
20 monitoring of a misdemeanor defendant's compliance with a  
21 preconviction or postconviction order of the court, including but not

1 limited to community corrections programs, probation supervision,  
2 pretrial supervision, or pretrial release services, including such  
3 services conducted pursuant to an interlocal agreement.

4 (3) This section does not create any duty and shall not be  
5 construed to create a duty where none exists. Nothing in this section  
6 shall be construed to affect judicial immunity.

7 **Sec. 2.** RCW 39.34.180 and 2001 c 68 s 4 are each amended to read  
8 as follows:

9 (1) Each county, city, and town is responsible for the  
10 prosecution, adjudication, sentencing, probation supervision, and  
11 incarceration of misdemeanor and gross misdemeanor offenses committed  
12 by adults in their respective jurisdictions, and referred from their  
13 respective law enforcement agencies, whether filed under state law or  
14 city ordinance, and must carry out these responsibilities through the  
15 use of their own courts, staff, and facilities, or by entering into  
16 contracts or interlocal agreements under this chapter to provide  
17 these services. Nothing in this section is intended to alter the  
18 statutory responsibilities of each county for the prosecution,  
19 adjudication, sentencing, probation supervision, and incarceration  
20 for not more than one year of felony offenders, nor shall this  
21 section apply to any offense initially filed by the prosecuting  
22 attorney as a felony offense or an attempt to commit a felony  
23 offense.

24 (2) The following principles must be followed in negotiating  
25 interlocal agreements or contracts: Cities and counties must consider  
26 (a) anticipated costs of services; and (b) anticipated and potential  
27 revenues to fund the services, including fines and fees, criminal  
28 justice funding, and state-authorized sales tax funding levied for  
29 criminal justice purposes.

30 (3) If an agreement as to the levels of compensation within an  
31 interlocal agreement or contract for gross misdemeanor and  
32 misdemeanor services cannot be reached between a city and county,  
33 then either party may invoke binding arbitration on the compensation  
34 issued by notice to the other party. In the case of establishing  
35 initial compensation, the notice shall request arbitration within  
36 thirty days. In the case of nonrenewal of an existing contract or  
37 interlocal agreement, the notice must be given one hundred twenty  
38 days prior to the expiration of the existing contract or agreement  
39 and the existing contract or agreement remains in effect until a new

1 agreement is reached or until an arbitration award on the matter of  
2 fees is made. The city and county each select one arbitrator, and the  
3 initial two arbitrators pick a third arbitrator. This subsection does  
4 not apply to the extent that the interlocal agreement is for  
5 probation supervision.

6 (4) A city or county that wishes to terminate an agreement for  
7 the provision of court services must provide written notice of the  
8 intent to terminate the agreement in accordance with RCW 3.50.810 and  
9 35.20.010. This subsection does not apply to the extent that the  
10 interlocal agreement is for probation supervision.

11 (5) For cities or towns that have not adopted, in whole or in  
12 part, criminal code or ordinance provisions related to misdemeanor  
13 and gross misdemeanor crimes as defined by state law, this section  
14 shall have no application until July 1, 1998.

15 (6) Municipal courts or district courts may enter into interlocal  
16 agreements for pretrial and/or post judgment probation supervision  
17 services pursuant to ARLJ 11. Such agreements shall not affect the  
18 jurisdiction of the court that imposes probation supervision, need  
19 not require the referral of all supervised cases by a jurisdiction,  
20 and may limit the referral for probation services to a single case.  
21 An agreement for probation services is not valid unless approved by  
22 the presiding judge of each participating court. The interlocal  
23 agreement may not require approval of the local executive and  
24 legislative bodies unless the interlocal agreement requires the  
25 expenditure of additional funds by the jurisdiction. Judges of the  
26 jurisdiction hosting probation services may only impose sanctions on  
27 cases from another participating jurisdiction if an agreement has  
28 been reached by the applicable cities or counties pursuant to RCW  
29 70.48.090 on how jail costs and the cost of other sanctions will be  
30 shared by the host and participating jurisdictions, and only if the  
31 judgment and sentence or other order states that sanctions may be  
32 imposed by the host jurisdiction.

33 The administrative office of the courts, in cooperation with the  
34 district and municipal court judges association, may develop a model  
35 interlocal agreement.

36 **Sec. 3.** RCW 70.48.090 and 2007 c 13 s 1 are each amended to read  
37 as follows:

38 (1) Contracts for jail services may be made between a county and  
39 a city, and among counties and cities. The contracts shall: Be in

1 writing, give one governing unit the responsibility for the operation  
2 of the jails, specify the responsibilities of each governing unit  
3 involved, and include the applicable charges for custody of the  
4 prisoners as well as the basis for adjustments in the charges. The  
5 contracts may be terminated only by ninety days written notice to the  
6 governing units involved and to the office. The notice shall state  
7 the grounds for termination and the specific plans for accommodating  
8 the affected jail population.

9 (2) A city or county may contract for jail services with an  
10 adjacent county, or city in an adjacent county, in a neighboring  
11 state. A person convicted in the courts of this state and sentenced  
12 to a term of confinement in a city or county jail may be transported  
13 to a jail in the adjacent county to be confined until: (a) The term  
14 of confinement is completed; or (b) that person is returned to be  
15 confined in a city or county jail in this state.

16 (3) The contract authorized in subsection (1) of this section  
17 shall be for a minimum term of ten years when state funds are  
18 provided to construct or remodel a jail in one governing unit that  
19 will be used to house prisoners of other governing units. The  
20 contract may not be terminated prior to the end of the term without  
21 the office's approval. If the contract is terminated, or upon the  
22 expiration and nonrenewal of the contract, the governing unit whose  
23 jail facility was built or remodeled to hold the prisoners of other  
24 governing units shall pay to the state treasurer the amount set by  
25 the corrections standards board or office when it authorized  
26 disbursement of state funds for the remodeling or construction under RCW  
27 70.48.120. This amount shall be deposited in the local jail  
28 improvement and construction account and shall fairly represent the  
29 construction costs incurred in order to house prisoners from other  
30 governing units. The office may pay the funds to the governing units  
31 which had previously contracted for jail services under rules which  
32 the office may adopt. The acceptance of state funds for constructing  
33 or remodeling consolidated jail facilities constitutes agreement to  
34 the proportionate amounts set by the office. Notice of the  
35 proportionate amounts shall be given to all governing units involved.  
36 This subsection shall not apply to interlocal agreements under RCW  
37 39.34.180(6).

38 (4) A city or county primarily responsible for the operation of a  
39 jail or jails may create a department of corrections to be in charge  
40 of such jail and of all persons confined therein by law, subject to

1 the authority of the governing unit. If such department is created,  
2 it shall have charge of jails and persons confined therein. If no  
3 such department of corrections is created, the chief law enforcement  
4 officer of the city or county primarily responsible for the operation  
5 of said jail shall have charge of the jail and of all persons  
6 confined therein.

7 (5) A city or county may enter into an interlocal agreement for  
8 the sharing of costs for sanctions imposed by a jurisdiction hosting  
9 probation services pursuant to an interlocal agreement under RCW  
10 39.34.180(6).

11 **Sec. 4.** RCW 10.64.120 and 2005 c 400 s 7 and 2005 c 282 s 22 are  
12 each reenacted and amended to read as follows:

13 (1) Every judge of a court of limited jurisdiction shall have the  
14 authority to levy upon a person a monthly assessment not to exceed  
15 one hundred dollars for services provided whenever the person is  
16 referred by the court to the misdemeanor probation department for  
17 evaluation or supervision services. The assessment may also be made  
18 by a judge in superior court when such misdemeanor or gross  
19 misdemeanor cases are heard in the superior court. Such costs may  
20 only be imposed by a host jurisdiction if the defendant is being  
21 supervised pursuant to an interlocal agreement under RCW  
22 39.34.180(6). Nothing in this subsection prevents contracting  
23 jurisdictions under RCW 39.34.180(6) from agreeing to the division of  
24 moneys received by the host jurisdiction for probation services.

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

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

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

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

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