

# HOUSE BILL REPORT

## SHB 2533

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### As Passed Legislature

**Title:** An act relating to misdemeanor probation services.

**Brief Description:** Revising misdemeanor probation programs.

**Sponsors:** By House Committee on Law & Justice (originally sponsored by Representatives Hickel, Sheahan, Cody, Sterk, Smith, Morris and Dellwo).

**Brief History:**

**Committee Activity:**

Law & Justice: 1/31/96, 2/1/96 [DPS].

**Floor Activity:**

Passed House: 2/10/96, 96-0.

Senate Amended.

House Concurred.

Passed Legislature.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Cody; Lambert; McMahan; Morris; Murray; Smith; Sterk and Veloria.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Chappell and Robertson.

**Staff:** Edie Adams (786-7180).

**Background:** Probation is a sentencing option available for imposition against a person found guilty of a crime. Probation may be ordered in addition to or in lieu of any other penalty, including imprisonment. An offender sentenced to probation must meet certain conditions of probation set by the court. An offender sentenced to probation must report to a probation officer and must follow the instructions of the probation officer.

In general, the Department of Corrections (DOC) is responsible for supervising felony offenders when sentences are imposed in superior court, while the counties are responsible for supervising misdemeanants and gross misdemeanants when sentences are imposed in district court.

Historically, DOC has also supervised misdemeanants and gross misdemeanants sentenced in superior court. Statutes that were enacted prior to the adoption of the Sentencing Reform Act placed this responsibility on DOC.

During the 1994 legislative session, a proviso was added to the budget that prohibited DOC from supervising misdemeanants and gross misdemeanants who were sentenced in superior court. Counties objected when DOC took steps to implement this change after the session ended. The counties argued that DOC still had the responsibility for supervising these offenders because the substantive statutes were not amended.

The counties and DOC began discussing alternative ways in which these supervision duties could be handled. In the meantime, the Governor ordered DOC to continue supervising these offenders while another solution was being negotiated.

The Washington State Law and Justice Advisory Council, a coalition of representatives from state and local agencies, became involved in the discussion and has proposed a solution for legislative consideration.

Municipal and district court judges may impose a monthly assessment of not more than \$50 on persons referred to local probation departments. In 1995, the Legislature increased the fee that DOC may impose on probationers under its jurisdiction to \$100.

**Summary of Bill:** DOC is to assume the supervision of misdemeanants sentenced in superior court. When superior court judges order supervision of a misdemeanor or gross misdemeanor, responsibility for the supervision falls initially on DOC. Counties, however, may elect to perform their own supervision of these offenders for a particular biennium. A county making this election enters into a contract with DOC. Under such contracts, counties can receive funding that must be used in supervising these offenders. The amount of the funds will be determined according to a formula based on the county's population, estimates of the cost of supervision, and the size of the Legislature's appropriation to DOC for purposes of supervising these offenders.

Any county that contracts with DOC to supervise superior court misdemeanants must establish and maintain classification and supervision standards that meet specified minimum requirements. In no case may a county's standards be less stringent than those required of DOC. The standards are to be met, and may be adjusted, within resources appropriated by the Legislature and supplemented by fee collections.

The state of Washington, DOC and its employees, community corrections officers, and volunteers are not liable for any harm caused by the actions of a superior court probationer who is under the supervision of a county. A county, its probation department, probation officers, and volunteers are not liable for any harm caused by a superior court misdemeanant who is under the supervision of DOC. DOC and any county probation department under contract with DOC and their employees, community corrections officers, and probation officers are not liable for civil damages resulting from an act or omission unless the act or omission constitutes gross negligence.

The provision of law allowing a referral assessment for probation services is amended to clarify the language. The maximum monthly fee that a judge of a municipal or district court may levy upon a person when the person is referred to the misdemeanant probation department for evaluation or services is increased from \$50 to \$100.

The Office of the Administrator for the Courts (OAC) is directed to define a probation department and to adopt rules for the qualifications of probation officers. These rules are to be developed by an oversight committee consisting of representatives of district and municipal courts, the misdemeanant corrections association, OAC, and cities and counties. The oversight committee is directed to consider the qualifications needed to ensure that probation officers have the training and education necessary to conduct pre-sentencing and post-sentencing recommendations and to provide ongoing supervision and assessment of offenders' needs and the risk they pose to the community.

Technical and clarifying amendments are made.

**Appropriation:** None.

**Fiscal Note:** Requested on January 26, 1996.

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

**Testimony For:** The costs of running the probation department should be borne by the offenders using the probation department's services. Last session the Legislature increased the fee the Department of Corrections could charge for misdemeanants referred to the department by superior courts to \$100.

**Testimony Against:** None.

**Testified:** Judge John McCarthy, Washington State Municipal and District Court Judges Association (pro); and Tom Ball, Thurston County District Court, Probation Department (pro).