

# HOUSE BILL REPORT

## SHB 2533

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### As Amended by the Senate:

**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.

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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.

Offenders convicted of misdemeanors and gross misdemeanors in municipal or district courts and sentenced to probation are referred to local probation departments.

Offenders convicted of misdemeanors or gross misdemeanors in superior courts and sentenced to probation are referred to the Department of Corrections (DOC).

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:** 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 misdemeanor 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 misdemeanor 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.

**EFFECT OF SENATE AMENDMENT(S):** A process is created that allows counties to contract with the Department of Corrections (DOC) to assume the supervision of misdemeanants sentenced in superior court. The contract must include: (1) the county's agreement to supervise all superior court misdemeanor probationers, including misdemeanor probationers who reside in that county but who were sentenced in another county; (2) the county's agreement to comply with minimum standards of classification and supervision of offenders; (3) the amount of money DOC will provide to the county for the supervision and a method of payment for those funds; (4) the county's agreement that the funds will be used only for the supervision of superior court misdemeanor probationers and that the county will account for these funds to DOC; and (5) provisions regarding termination of the contract and rights and responsibilities in the event of a breach of contract.

The state of Washington and DOC are immune from civil liability for any harm caused by the actions of a county probation officer, and a county is immune from liability for any harm caused by DOC's probation officers. The state of Washington, DOC, and county probation departments and their employees and officials are immune from civil liability for harm caused by any act or omission in the rendering of probation services unless the act or omission constitutes gross negligence.

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 offered by DOC. The standards are to be met, and may be adjusted, within resources appropriated by the Legislature and supplemented by fee collections.

Technical and clarifying changes 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).