

HOUSE BILL REPORT

ESSB 6208

As Reported By House Committee On:

Corrections

Title: An act relating to misdemeanor probation services.

Brief Description: Revising misdemeanor probation programs.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Haugen, Johnson, Bauer, Winsley and Schow).

Brief History:

Committee Activity:

Corrections: 2/21/96 [DP].

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: Do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Sherstad, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; Schoesler and D. Sommers.

Staff: Rick Neidhardt (786-7841).

Background:

1. Probation. Offenders convicted of misdemeanors or gross misdemeanors may be placed on probation. Probation is usually imposed as part of a suspended sentence or a deferred sentence. The probationer is then supervised for a certain period of time and can avoid imposition of the sentence by complying with the conditions of probation.

2. Supervision of probationers. When district or municipal courts order supervision for probationers, the supervision is performed by probation officers hired by county probation departments.

By comparison, when superior courts order supervision for probationers, the supervision is performed by the community corrections officers from the Department of Corrections (DOC).

3. Supervision fees for probationers. Municipal and district court judges may impose a monthly supervision assessment of not more than \$50 for persons supervised by county probation departments. Last year, the Legislature increased the fee that DOC may impose on probationers under its jurisdiction to \$100.

Summary of Bill:

1. Probation. The Office of the Administrator for the Courts (OAC) is directed to define a local 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.

2. Supervision of probationers. Changes are made to the supervision of probationers sentenced in superior court, as summarized in the following paragraphs. No changes are made to the supervision of probationers sentenced in municipal or district court.

DOC retains initial responsibility for supervising misdemeanants sentenced to probation in superior court, but counties may take over responsibility by contracting with DOC.

Contracts for county supervision: The contract must include at least the following provisions:

- the county's agreement to supervise offenders sentenced in the county and residing there;
- reciprocal agreement regarding offenders sentenced in one county and living in another;
- the county's agreement to comply with minimum standards for classification and supervision;
- the amount of money DOC will give to the county, calculated by a formula developed by DOC;
- the method for DOC's payment;
- the county's agreement to spend the money only for supervising superior court misdemeanor probationers;
- the county's agreement to account for spending of funds and to submit to audits;
- provisions regarding default or breach; and
- provisions allowing for voluntary termination with good cause after 60 days notice.

Termination of the contract means DOC reassumes responsibility for the supervision.

Standards of DOC supervision: Superior court misdemeanor probationers must be supervised based on an offender classification system and supervision standards.

DOC's standards must include at least one personal contact per quarter, either face-by-face or by phone. DOC can make exceptions if (1) the offender has no special conditions or crime-related prohibitions imposed by the court other than legal financial obligations; and (2) the offender poses minimal risk to public safety.

Standards of county supervision: A county electing to contract with DOC must set up a classification system that

- provides a standardized system of offender risk;
- differentiates between higher and lower risk offenders based on criminal history and current offense;
- assigns level of supervision based on assessed risk;
- provides at least three levels of supervision;
- provides for periodic review of supervision level; and
- structures the discretion of supervising officers.

The county may set up supervision standards that

- specify the frequency and nature of contacts for each classification level;
- include, for the highest risk offenders, at least one face-to-face contact each month;
- include, for all offenders, at least one personal contact per quarter;
- assign reporting requirements for each level;
- assign higher risk offenders to staff trained to supervise higher risk offenders;
- have verification processes for offenders' compliance; and
- include reporting of violations to the court.

County supervision must be at least as stringent as that of DOC.

The classification system and supervision standards must be established and met within the available resources, including legislative appropriations, revenue derived from supervision assessments, and any other funds generated by the supervising entity.

Immunity: Counties are immune from liability when DOC supervises; DOC is immune when a county supervises. The supervising entity, whether it is DOC or a county, is immune when acting in good faith and for any harm caused by a probationer under supervision. The supervising entity is immune from harm resulting

from an inability to comply with standards of supervision due to insufficient resources.

3. Supervision fees for probationers. The maximum supervision fee that may be charged offenders convicted of a misdemeanor or gross misdemeanor in municipal or district court is increased from \$50 to \$100 per month.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The District and Municipal Court Judges Association supports the changes regarding supervision fees and defining probation officers. The Washington State Law and Justice Advisory Council supports the bill's provisions allowing for counties to contract for the supervision of superior court probationers. The intent of the immunity provisions is for DOC to have immunity when the counties supervise and vice versa. Due to lack of funds, many superior court probationers currently get supervision where the offender calls a 1-900 phone number. Some of the cases where the level of supervision is the greatest concern are domestic violence cases and DWI cases that get reduced from a felony level. Sex offenders whose convictions are pleaded down, or otherwise reduced, to the misdemeanor level are difficult to supervise. Thurston County currently collects approximately 55 percent of supervision fees, and generally the offenders are required to work off the balance. Allowing counties to contract to take over supervision of superior court probationers provides enhanced flexibility and opportunities for local control of supervision issues.

Testimony Against: None.

Testified: Judge John McCarthy, representing District & Municipal Court Judges Association and the Washington State Law and Justice Advisory Council (pro); Tom Ball, Misdemeanant Corrections Association (pro as to supervision fee increase and definition of probation officer); and Dave Savage, Department of Corrections (pro).