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ENGROSSED SUBSTITUTE HOUSE BILL 1357

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State of Washington

54th Legislature

1995 Regular Session

By House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Sherstad, Cole, Costa, Blanton, Quall, Veloria, Radcliff, Campbell and Dickerson)

Read first time 02/28/95.

1 AN ACT Relating to supervision of offenders placed on probation;  
2 amending RCW 9.95.210, 9.92.060, and 36.01.070; and adding new sections  
3 to chapter 9.95 RCW.

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

5 **Sec. 1.** RCW 9.95.210 and 1993 c 251 s 3 are each amended to read  
6 as follows:

7 (1) In granting probation, the court may suspend the imposition or  
8 the execution of the sentence and may direct that the suspension may  
9 continue upon such conditions and for such time as it shall designate,  
10 not exceeding the maximum term of sentence or two years, whichever is  
11 longer.

12 (2) In the order granting probation and as a condition thereof, the  
13 court may in its discretion imprison the defendant in the county jail  
14 for a period not exceeding one year and may fine the defendant any sum  
15 not exceeding the statutory limit for the offense committed, and court  
16 costs. As a condition of probation, the court shall require the  
17 payment of the penalty assessment required by RCW 7.68.035. The court  
18 may also require the defendant to make such monetary payments, on such  
19 terms as it deems appropriate under the circumstances, as are necessary

1 ((+1)) (a) to comply with any order of the court for the payment of  
2 family support, ((+2)) (b) to make restitution to any person or  
3 persons who may have suffered loss or damage by reason of the  
4 commission of the crime in question or when the offender pleads guilty  
5 to a lesser offense or fewer offenses and agrees with the prosecutor's  
6 recommendation that the offender be required to pay restitution to a  
7 victim of an offense or offenses which are not prosecuted pursuant to  
8 a plea agreement, ((+3)) (c) to pay such fine as may be imposed and  
9 court costs, including reimbursement of the state for costs of  
10 extradition if return to this state by extradition was required,  
11 ((+4)) (d) following consideration of the financial condition of the  
12 person subject to possible electronic monitoring, to pay for the costs  
13 of electronic monitoring if that monitoring was required by the court  
14 as a condition of release from custody or as a condition of probation,  
15 ((+5)) (e) to contribute to a county or interlocal drug fund, and  
16 ((+6)) (f) to make restitution to a public agency for the costs of an  
17 emergency response under RCW 38.52.430, and may require bonds for the  
18 faithful observance of any and all conditions imposed in the probation.

19 (3) In granting probation, the court ((shall)) may order the  
20 probationer to report to the secretary of corrections or such officer  
21 as the secretary may designate and as a condition of the probation to  
22 follow implicitly the instructions of the secretary. If the county  
23 legislative authority of the county wherein the court is located elects  
24 to assume responsibility for the supervision of all misdemeanor  
25 probationers sentenced by the court, probationers convicted of  
26 misdemeanors or gross misdemeanors shall report to a probation officer  
27 employed or contracted for by the county legislative authority.

28 (4) If the probationer has been ordered to make restitution and the  
29 court has ordered supervision, the officer supervising the probationer  
30 shall make a reasonable effort to ascertain whether restitution has  
31 been made. If the court has ordered supervision and restitution has  
32 not been made as ordered, the officer shall inform the prosecutor of  
33 that violation of the terms of probation not less than three months  
34 prior to the termination of the probation period. The secretary of  
35 corrections will promulgate rules and regulations for the conduct of  
36 the person during the term of probation. For defendants found guilty  
37 in district court, like functions as the secretary performs in regard  
38 to probation may be performed by probation officers employed for that

1 purpose by the county legislative authority of the county wherein the  
2 court is located.

3 **Sec. 2.** RCW 9.92.060 and 1987 c 202 s 142 are each amended to read  
4 as follows:

5 (1) Whenever any person shall be convicted of any crime except  
6 murder, burglary in the first degree, arson in the first degree,  
7 robbery, carnal knowledge of a female child under the age of ten years,  
8 or rape, the court may in its discretion, at the time of imposing  
9 sentence upon such person, direct that such sentence be stayed and  
10 suspended until otherwise ordered by such court, and that the sentenced  
11 person may be placed under the charge of a ~~((parole or peace officer~~  
12 ~~during the term of such suspension))~~ community corrections officer  
13 employed by the department of corrections, or if the county elects to  
14 assume responsibility for the supervision of all misdemeanor  
15 probationers a probation officer employed or contracted for by the  
16 county, upon such terms as the court may determine~~((:—PROVIDED,~~  
17 ~~That))~~.

18 (2) As a condition to suspension of sentence, the court shall  
19 require the payment of the penalty assessment required by RCW  
20 7.68.035~~((:—PROVIDED FURTHER, That as a condition to suspension of~~  
21 ~~sentence))~~. In addition, the court may require the convicted person to  
22 make such monetary payments, on such terms as the court deems  
23 appropriate under the circumstances, as are necessary ~~((+1))~~ (a) to  
24 comply with any order of the court for the payment of family support,  
25 ~~((+2))~~ (b) to make restitution to any person or persons who may have  
26 suffered loss or damage by reason of the commission of the crime in  
27 question or when the offender pleads guilty to a lesser offense or  
28 fewer offenses and agrees with the prosecutor's recommendation that the  
29 offender be required to pay restitution to a victim of an offense or  
30 offenses which are not prosecuted pursuant to a plea agreement, ~~((+3))~~  
31 (c) to pay any fine imposed and not suspended and the court or other  
32 costs incurred in the prosecution of the case, including reimbursement  
33 of the state for costs of extradition if return to this state by  
34 extradition was required, and ~~((+4))~~ (d) to contribute to a county or  
35 interlocal drug fund. ~~((In no case shall a sentence be suspended under~~  
36 ~~the provisions of this section unless the person if sentenced to~~  
37 ~~confinement in a penal institution be placed under the charge of a~~  
38 ~~parole officer, who is a duly appointed and acting officer of the~~

1 institution to which the person is sentenced: PROVIDED, That persons  
2 convicted in district court may be placed under supervision of a  
3 probation officer employed for that purpose.))

4 (3) As a condition of the suspended sentence, the court may order  
5 the probationer to report to the secretary of corrections or such  
6 officer as the secretary may designate and as a condition of the  
7 probation to follow implicitly the instructions of the secretary. If  
8 the county legislative authority of the county wherein the court is  
9 located has elected to assume responsibility for the supervision of all  
10 misdemeanant probationers sentenced by the courts of that county,  
11 probationers convicted of a misdemeanor or gross misdemeanor shall  
12 report to a probation officer employed or contracted for by the county  
13 legislative authority.

14 (4) If restitution to the victim has been ordered under subsection  
15 (2)(b) of this section and the court has ordered supervision, the  
16 officer supervising the probationer shall make a reasonable effort to  
17 ascertain whether restitution has been made as ordered. If the court  
18 has ordered supervision and restitution has not been made, the officer  
19 shall inform the prosecutor of that violation of the terms of the  
20 suspended sentence not less than three months prior to the termination  
21 of the suspended sentence.

22 NEW SECTION. Sec. 3. A new section is added to chapter 9.95 RCW  
23 to read as follows:

24 (1) When a court places a defendant on probation and orders  
25 supervision pursuant to RCW 9.92.060 or 9.95.210, the department of  
26 corrections shall maintain initial responsibility for supervision of  
27 that defendant.

28 (2) At the beginning of each biennium, a county legislative  
29 authority has the option to elect to assume responsibility for the  
30 supervision of defendants convicted of a misdemeanor or gross  
31 misdemeanor and sentenced to probation by the courts located within  
32 that county. If the county assumes supervision responsibility, the  
33 county is responsible for supervision of all misdemeanor probationers  
34 within that county for the duration of the biennium. If the county  
35 assumes supervision responsibility, the department of corrections'  
36 responsibility to supervise misdemeanor probationers within that  
37 county ends. At the end of the biennium, the county may extend its  
38 assumption of supervision responsibility for another biennium, or the

1 responsibility may be returned to the department of corrections. If a  
2 county does not elect to assume supervision responsibility, the  
3 department of corrections shall continue its supervision of the  
4 misdemeanor probationers.

5 (3) If a county elects to assume supervision responsibility, the  
6 county and the department shall enter into a contractual agreement. At  
7 the beginning of the biennium, prior to the county's election to assume  
8 supervision responsibility, the department of corrections shall advise  
9 the county of the set amount of funds the department of corrections  
10 will distribute to the county for the supervision of misdemeanor  
11 offenders during that biennium. This set amount of funds shall be  
12 based upon population and cost of supervision estimates developed by  
13 the department of corrections and the funds actually appropriated to  
14 the department of corrections for the supervision of misdemeanor  
15 probationers. If a county elects to assume supervision responsibility,  
16 the department of corrections shall disburse the set amount of funds to  
17 the county, in two equal payments, with each payment being made at the  
18 beginning of the state fiscal year. The department of corrections is  
19 not required to provide the county with any additional funding for the  
20 supervision of misdemeanor probationers during the biennium. All  
21 funds received by the county from the department of corrections must be  
22 expended to cover costs of supervision of misdemeanor probationers.  
23 The county shall report as requested by the department of corrections  
24 regarding the expenditure of these funds. If the county fails to apply  
25 the funds for the supervision of misdemeanor probationers, or fails to  
26 report to the department of corrections, the department may decline to  
27 provide the county with funds for supervision responsibility during the  
28 following biennium or bienniums. The department of corrections is not  
29 liable for any misuse of appropriated funds by the county. If, during  
30 the biennium, the legislature provides additional funds for the  
31 supervision of misdemeanor probationers sentenced in superior court,  
32 the department shall provide a proportionate share of those additional  
33 funds to counties that are supervising this population of probationers  
34 based on the ratio of probationers in this population that the county  
35 is responsible for supervising.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.95 RCW  
37 to read as follows:

1 (1) The department of corrections, county probation departments,  
2 superior and district court judges, and the misdemeanor corrections  
3 association, shall recommend to the Washington state law and justice  
4 advisory council, appointed under RCW 72.09.300(7), and the Washington  
5 state law and justice advisory council shall adopt, standards for the  
6 supervision of misdemeanor probationers sentenced by superior court  
7 under RCW 9.95.210 or 9.92.060. When pursuant to this section a county  
8 assumes responsibility for misdemeanor supervision, the county  
9 legislative authority will apply the standards adopted by the  
10 Washington state law and justice advisory council or will develop its  
11 own supervision and classification standards subject to approval by the  
12 department of corrections as a part of the contract for county  
13 supervision. The Washington state law and justice advisory council  
14 shall establish classifications of misdemeanor probationers based upon  
15 the seriousness of the offense, the perceived risks to the community,  
16 and other relevant factors. Supervision standards for classifications  
17 of misdemeanor probationers may include an override system that  
18 provides the official supervising misdemeanor probationers with the  
19 discretion to adjust the standards based upon individual circumstances  
20 surrounding the probationer. Supervision standards shall include  
21 provisions for reciprocal supervision of offenders sentenced in  
22 counties other than the county of residence. In any case, supervision  
23 standards shall not exceed the resources provided by the legislature  
24 and supervision fees collected, except by enhancements individual  
25 counties may wish to fund.

26 (2) If a county elects to assume supervision responsibility, the  
27 county must agree prior to receiving any funds from the department of  
28 corrections to comply with the standards of supervision developed by  
29 the department of corrections. The department of corrections is not  
30 liable for any harm suffered if the supervision provided by the county  
31 fails to meet the standards of supervision. However, if a county  
32 consistently fails to comply with the standards of supervision, the  
33 department of corrections may decline to provide the county with funds  
34 for supervision, in which case the department shall assume supervision  
35 responsibility. If the county has not assumed supervision  
36 responsibility, the county is not liable if the department of  
37 corrections fails to comply with the standards of supervision.

38 (3) If the department of corrections, or the county assuming  
39 supervision responsibility, complies with the standards of supervision,

1 the department of corrections, or the county, is not liable for any  
2 harm caused by the actions of a misdemeanor probationer under its  
3 supervision. If for any reason there are insufficient resources for  
4 the department of corrections, or the county assuming supervision  
5 responsibility, to comply with the standards of supervision, the  
6 department of corrections, or the county, is not liable for any harm  
7 caused by the failure to comply with the standards of supervision.

8 **Sec. 5.** RCW 36.01.070 and 1967 c 200 s 9 are each amended to read  
9 as follows:

10 Notwithstanding the provisions of chapter 72.01 RCW or any other  
11 provision of law, counties may engage in probation and parole services  
12 and employ personnel therefor under such terms and conditions as any  
13 such county shall so determine. If a county elects to assume  
14 responsibility for the supervision of misdemeanor offenders placed on  
15 probation pursuant to RCW 9.92.060 or 9.95.210, the county may contract  
16 with other counties to receive or provide such probation services. A  
17 county may also enter into partnership agreements with the department  
18 of corrections pursuant to RCW 72.09.300.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 9.95 RCW  
20 to read as follows:

21 Whenever a defendant convicted of a misdemeanor or gross  
22 misdemeanor is placed on probation pursuant to RCW 9.92.060 or  
23 9.95.210, and the defendant is supervised by the department of  
24 corrections or the county, either may assess and collect from the  
25 defendant for the duration of the term of supervision a monthly  
26 assessment not to exceed one hundred dollars per month. This  
27 assessment shall be paid to the entity responsible for supervision, and  
28 shall be applied, along with funds appropriated by the legislature,  
29 towards the payment or part payment of the cost of supervising the  
30 defendant. Funds collected for supervision shall be reported to the  
31 department.

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