

HOUSE BILL ANALYSIS

HB 2979

Title: An act relating to probation services.

Brief Description: Providing immunity from civil liability for provision of probation services.

Sponsors: Representatives Sheahan, Mastin, Grant, Chopp and D. Schmidt.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: Probation is a sentencing option a court may impose against a person found guilty of a crime. The court may order probation in addition to, or in lieu of, other penalties.

An offender sentenced to probation must meet certain conditions of probation set by the court and must report periodically to a probation officer and follow the probation officer's instructions. The probation officer must make reports to the court regarding the probationer's progress. A court may revoke an offender's probation after a hearing if the offender violates the conditions of his or her probation.

When a superior court places a defendant convicted of a misdemeanor or gross misdemeanor on probation, the Department of Corrections (DOC) has initial responsibility for the defendant. Counties may contract with the DOC to assume responsibility for supervising superior court misdemeanor probationers within the county's jurisdiction. There are specific statutory provisions governing the contracts between the DOC and counties.

The state, the DOC, and the DOC employees and probation officers are not liable for any harm caused by the actions of a superior court probationer who is under the supervision of a county contracting with the DOC. A county and its probation department and probation officers are not liable for any harm caused by a superior court probationer who is under the supervision of the DOC.

The DOC and any county probation department under contract with the DOC and their employees and probation officers are not liable for civil damages resulting from an act or omission in the rendering of probation services unless the act or omission constitutes gross negligence.

District courts share concurrent jurisdiction with superior courts over misdemeanors and gross misdemeanors. A district court may place a convicted defendant on probation, and the county may provide probation services to the district court probationer. The county's probation services for district court misdemeanants are not based on any contract with the DOC.

Summary of Bill: A county providing probation services for district court probationers, or a city engaging in probation services, and their probation department employees or volunteers who assist probation officers, are not liable for civil damages resulting from any act or omission in providing probation services unless the employee acted maliciously, or intentionally misused his or her authority, and the act or omission is outside the scope of the employee's position.

Fiscal Note: Not requested.

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

Office of Program Research