

ESHB 1402 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 04/12/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
4 to read as follows:

5 (1) The department may supervise nonfelony offenders transferred to
6 Washington pursuant to RCW 9.94A.745, the interstate compact for adult
7 offender supervision, and shall supervise these offenders according to
8 the provisions of this chapter.

9 (2) The department shall process applications for interstate
10 transfer of felony and nonfelony offenders pursuant to RCW 9.94A.745,
11 the interstate compact for adult offender supervision, and may charge
12 offenders a reasonable fee for processing the application.

13 **Sec. 2.** RCW 9.95.204 and 1996 c 298 s 1 are each amended to read
14 as follows:

15 (1) When a superior court places a defendant convicted of a
16 misdemeanor or gross misdemeanor on probation and orders supervision
17 under RCW 9.92.060 or 9.95.210, the department of corrections has
18 initial responsibility for supervision of that defendant.

19 (2) A county legislative authority may assume responsibility for
20 the supervision of all defendants within its jurisdiction who have been
21 convicted of a misdemeanor or gross misdemeanor and sentenced to
22 probation by a superior court. The assumption of responsibility shall
23 be made by contract with the department of corrections on a biennial
24 basis.

25 (3) If a county assumes supervision responsibility, the county
26 shall supervise all superior court misdemeanant probationers within
27 that county for the duration of the biennium, as set forth in the
28 contract with the department of corrections.

1 (4) A contract between a county legislative authority and the
2 department of corrections for the transfer of supervision
3 responsibility must include, at a minimum, the following provisions:

4 (a) The county's agreement to supervise all misdemeanor
5 probationers who are sentenced by a superior court within that county
6 and who reside within that county;

7 (b) A reciprocal agreement regarding the supervision of superior
8 court misdemeanor probationers sentenced in one county but who reside
9 in another county;

10 (c) The county's agreement to comply with the minimum standards for
11 classification and supervision of offenders as required under RCW
12 9.95.206;

13 (d) The amount of funds available from the department of
14 corrections to the county for supervision of superior court
15 misdemeanor probationers, calculated according to a formula
16 established by the department of corrections;

17 (e) A method for the payment of funds by the department of
18 corrections to the county;

19 (f) The county's agreement that any funds received by the county
20 under the contract will be expended only to cover costs of supervision
21 of superior court misdemeanor probationers;

22 (g) The county's agreement to account to the department of
23 corrections for the expenditure of all funds received under the
24 contract and to submit to audits for compliance with the supervision
25 standards and financial requirements of this section;

26 (h) Provisions regarding rights and remedies in the event of a
27 possible breach of contract or default by either party; and

28 (i) Provisions allowing for voluntary termination of the contract
29 by either party, with good cause, after sixty days' written notice.

30 (5) If the contract between the county and the department of
31 corrections is terminated for any reason, the department of corrections
32 shall reassume responsibility for supervision of superior court
33 misdemeanor probationers within that county. In such an event, the
34 department of corrections retains any and all rights and remedies
35 available by law and under the contract.

36 (6) The state of Washington, the department of corrections and its
37 employees, community corrections officers, and volunteers who assist
38 community corrections officers are not liable for any harm caused by

1 the actions of a superior court misdemeanor probationer who is under
2 the supervision of a county. A county, its probation department and
3 employees, probation officers, and volunteers who assist probation
4 officers are not liable for any harm caused by the actions of a
5 superior court misdemeanor probationer who is under the supervision of
6 the department of corrections. This subsection applies regardless of
7 whether the supervising entity is in compliance with the standards of
8 supervision at the time of the misdemeanor probationer's actions.

9 (7) The state of Washington, the department of corrections and its
10 employees, community corrections officers, any county under contract
11 with the department of corrections pursuant to this section and its
12 employees, probation officers, and volunteers who assist community
13 corrections officers and probation officers in the superior court
14 misdemeanor probation program are not liable for civil damages
15 resulting from any act or omission in the rendering of superior court
16 misdemeanor probation activities unless the act or omission
17 constitutes gross negligence. For purposes of this section,
18 "volunteers" is defined according to RCW 51.12.035.

19 (8)(a) If a misdemeanor probationer requests permission to travel
20 or transfer to another state, the assigned probation officer employed
21 or contracted for by the county shall determine whether such request is
22 subject to RCW 9.94A.745, the interstate compact for adult offender
23 supervision. If such request is subject to the compact, the probation
24 officer shall:

25 (i) Notify the department of corrections of the probationer's
26 request;

27 (ii) Provide the department of corrections with the supporting
28 documentation it requests for processing an application for transfer;

29 (iii) Notify the probationer of the fee due to the department of
30 corrections for processing an application under the compact;

31 (iv) Cease supervision of the probationer while another state
32 supervises the probationer pursuant to the compact;

33 (v) Resume supervision if the probationer returns to this state
34 before the term of probation expires.

35 (b) The probationer shall receive credit for time served while
36 being supervised by another state.

1 **Sec. 3.** RCW 9.95.214 and 1996 c 298 s 4 are each amended to read
2 as follows:

3 Whenever a defendant convicted of a misdemeanor or gross
4 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and
5 the defendant is supervised by the department of corrections or a
6 county probation department, the department or county probation
7 department may assess and collect from the defendant for the duration
8 of the term of supervision a monthly assessment not to exceed one
9 hundred dollars per month. This assessment shall be paid to the agency
10 supervising the defendant and shall be applied, along with funds
11 appropriated by the legislature, toward the payment or part payment of
12 the cost of supervising the defendant. The department or county
13 probation department shall suspend such assessment while the defendant
14 is being supervised by another state pursuant to RCW 9.94A.745, the
15 interstate compact for adult offender supervision.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 3.66 RCW
17 to read as follows:

18 (1) If a person placed on probation for one year or more for a
19 misdemeanor or gross misdemeanor by a district court requests
20 permission to travel or transfer to another state, the assigned
21 probation officer shall determine whether such request is subject to
22 RCW 9.94A.745, the interstate compact for adult offender supervision.

23 If such request is subject to the compact, the probation officer shall:

24 (a) Notify the department of corrections of the probationer's
25 request;

26 (b) Provide the department of corrections with the supporting
27 documentation it requests for processing an application for transfer;

28 (c) Notify the probationer of the fee due to the department of
29 corrections for processing an application under the compact;

30 (d) Cease supervision of the probationer while another state
31 supervises the probationer pursuant to the compact;

32 (e) Resume supervision if the probationer returns to this state
33 before the term of probation expires.

34 (2) The probationer shall receive credit for time served while
35 being supervised by another state.

36 (3) If the probationer is returned to the state at the request of

1 the receiving state under rules of the interstate compact for adult
2 offender supervision, the department of corrections is responsible for
3 the cost of returning the probationer.

4 (4) The state of Washington, the department of corrections and its
5 employees, and any county and its employees are not liable for civil
6 damages resulting from any act or omission authorized or required under
7 this section unless the act or omission constitutes gross negligence.

8 **Sec. 5.** RCW 35.20.255 and 2001 c 94 s 3 are each amended to read
9 as follows:

10 (1) Judges of the municipal court, in their discretion, shall have
11 the power in all criminal proceedings within their jurisdiction
12 including violations of city ordinances, to defer imposition of any
13 sentence, suspend all or part of any sentence including installment
14 payment of fines, fix the terms of any such deferral or suspension, and
15 provide for such probation as in their opinion is reasonable and
16 necessary under the circumstances of the case, but in no case shall it
17 extend for more than five years from the date of conviction for a
18 defendant to be sentenced under RCW 46.61.5055 and two years from the
19 date of conviction for all other offenses. A defendant who has been
20 sentenced, or whose sentence has been deferred, and who then fails to
21 appear for any hearing to address the defendant's compliance with the
22 terms of probation when ordered to do so by the court, shall have the
23 term of probation tolled until such time as the defendant makes his or
24 her presence known to the court on the record. However, the
25 jurisdiction period in this section does not apply to the enforcement
26 of orders issued under RCW 46.20.720. Any time before entering an
27 order terminating probation, the court may modify or revoke its order
28 suspending or deferring the imposition or execution of the sentence.

29 (2)(a) If a defendant whose sentence has been deferred requests
30 permission to travel or transfer to another state, the director of
31 probation services or a designee thereof shall determine whether such
32 request is subject to RCW 9.94A.745, the interstate compact for adult
33 offender supervision. If such request is subject to the compact, the
34 director or designee shall:

35 (i) Notify the department of corrections of the defendant's
36 request;

1 (ii) Provide the department of corrections with the supporting
2 documentation it requests for processing an application for transfer;

3 (iii) Notify the defendant of the fee due to the department of
4 corrections for processing an application under the compact;

5 (iv) Cease supervision of the defendant while another state
6 supervises the defendant pursuant to the compact;

7 (v) Resume supervision if the defendant returns to this state
8 before the period of deferral expires.

9 (b) The defendant shall receive credit for time served while being
10 supervised by another state.

11 (c) If the probationer is returned to the state at the request of
12 the receiving state under rules of the interstate compact for adult
13 offender supervision, the department of corrections is responsible for
14 the cost of returning the probationer.

15 (d) The state of Washington, the department of corrections and its
16 employees, and any city and its employees are not liable for civil
17 damages resulting from any act or omission authorized or required under
18 this section unless the act or omission constitutes gross negligence.

19 NEW SECTION. Sec. 6. A new section is added to chapter 3.50 RCW
20 to read as follows:

21 (1) If a person placed on probation for one year or more for a
22 misdemeanor or gross misdemeanor by a municipal court requests
23 permission to travel or transfer to another state, the assigned
24 probation officer shall determine whether such request is subject to
25 RCW 9.94A.745, the interstate compact for adult offender supervision.
26 If such request is subject to the compact, the probation officer shall:

27 (a) Notify the department of corrections of the probationer's
28 request;

29 (b) Provide the department of corrections with the supporting
30 documentation it requests for processing an application for transfer;

31 (c) Notify the probationer of the fee due to the department of
32 corrections for processing an application under the compact;

33 (d) Cease supervision of the probationer while another state
34 supervises the probationer pursuant to the compact;

35 (e) Resume supervision if the probationer returns to this state
36 before the term of probation expires.

1 (2) The probationer shall receive credit for time served while
2 being supervised by another state.

3 (3) If the probationer is returned to the state at the request of
4 the receiving state under rules of the interstate compact for adult
5 offender supervision, the department of corrections is responsible for
6 the cost of returning the probationer.

7 (4) The state of Washington, the department of corrections and its
8 employees, and any city and its employees are not liable for civil
9 damages resulting from any act or omission authorized or required under
10 this section unless the act or omission constitutes gross negligence.

11 **Sec. 7.** RCW 10.64.120 and 1996 c 298 s 6 are each amended to read
12 as follows:

13 (1) Every judge of a court of limited jurisdiction shall have the
14 authority to levy upon a person a monthly assessment not to exceed one
15 hundred dollars for services provided whenever the person is referred
16 by the court to the misdemeanor probation department for evaluation or
17 supervision services. The assessment may also be made by a judge in
18 superior court when such misdemeanor or gross misdemeanor cases are
19 heard in the superior court.

20 (2) For the purposes of this section the office of the
21 administrator for the courts shall define a probation department and
22 adopt rules for the qualifications of probation officers based on
23 occupational and educational requirements developed by an oversight
24 committee. This oversight committee shall include a representative
25 from the district and municipal court judges association, the
26 misdemeanor corrections association, the office of the administrator
27 for the courts, and associations of cities and counties. The oversight
28 committee shall consider qualifications that provide the training and
29 education necessary to (a) conduct presentencing and postsentencing
30 background investigations, including sentencing recommendations to the
31 court regarding jail terms, alternatives to incarceration, and
32 conditions of release; and (b) provide ongoing supervision and
33 assessment of offenders' needs and the risk they pose to the community.

34 (3) It shall be the responsibility of the probation services office
35 to implement local procedures approved by the court of limited
36 jurisdiction to ensure collection and payment of such fees into the
37 general fund of the city or county treasury.

1 (4) Revenues raised under this section shall be used to fund
2 programs for probation services and shall be in addition to those funds
3 provided in RCW 3.62.050.

4 (5) Assessments and fees levied upon a probationer under this
5 section must be suspended while the probationer is being supervised by
6 another state under RCW 9.94A.745, the interstate compact for adult
7 offender supervision.

8 NEW SECTION. Sec. 8. This act applies to offenders sentenced
9 before, on, or after the effective date of this act.

10 NEW SECTION. Sec. 9. This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 July 1, 2005."

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14 On page 1, line 2 of the title, after "state;" strike the remainder
15 of the title and insert "amending RCW 9.95.204, 9.95.214, 35.20.255,
16 and 10.64.120; adding a new section to chapter 9.94A RCW; adding a new
17 section to chapter 3.66 RCW; adding a new section to chapter 3.50 RCW;
18 creating a new section; providing an effective date; and declaring an
19 emergency."

EFFECT: (1) The amendment limits those offenders who the county
correctional officer must determine whether to refer to DOC for
transfer proceedings to those with terms of supervision of one year or
more, which is consistent with the Compact.

(2) The amendment also harmonizes the municipal court liability
provision with the provisions for other courts of limited jurisdiction.

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