

HOUSE BILL REPORT

HB 2605

As Reported by House Committee On:
Judiciary

Title: An act relating to misdemeanor supervision services by limited jurisdiction courts.

Brief Description: Addressing misdemeanor supervision services by limited jurisdiction courts.

Sponsors: Representatives Irwin and Macri.

Brief History:

Committee Activity:

Judiciary: 1/30/18, 2/1/18 [DPS].

Brief Summary of Substitute Bill

- Provides that limited jurisdiction courts may enter into interlocal agreements for the provision of pretrial and post judgment probation supervision services, and establishes criteria governing their establishment and scope.
- Extends the limited immunity applicable to limited jurisdiction courts for the provision of misdemeanor probation services to persons operating at the direction of the court pursuant to an interlocal agreement.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Jinkins, Chair; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall, Shea and Valdez.

Staff: Edie Adams (786-7180).

Background:

Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of adult misdemeanor offenses committed by adults in their respective jurisdictions and referred to their courts by their law enforcement agencies, regardless of whether filed under state law or city ordinance. Local jurisdictions may meet this

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responsibility through use of their own courts, staff, and facilities or by entering into interlocal agreements for these services. If the contracting parties are unable to agree on levels of compensation under the agreement, they must submit the issue to arbitration. Once established, a city or county may not terminate an interlocal agreement for court services except by complying with certain minimum notice and time requirements.

Limited jurisdiction courts have the authority to suspend or defer the imposition of a criminal sentence upon specific terms and provide for a period of probation the court deems reasonable and necessary under the particular circumstances. A limited jurisdiction court may establish a misdemeanor probation department under standards provided in Limited Jurisdiction Court Administration Rule (ALRJ) 11. The method of providing misdemeanor probation services must be established by the presiding judge to meet the specific needs of the court. A misdemeanor probation department may consist of probation officers and probation clerks, and minimum qualifications and core services for probation officers and probation clerks are established under ALRJ 11.

When a court orders that an offender convicted of a misdemeanor or gross misdemeanor be placed on probation, the court may impose a monthly assessment of up to \$100 for evaluation and supervision services provided by the misdemeanor probation department. Revenues from the assessment are paid into the county or city general fund and must be used to fund programs for probation services.

A limited jurisdiction court that provides misdemeanor supervision services is provided with limited immunity from civil liability with respect to those services. A limited jurisdiction court is not liable for damages based on the inadequate supervision or monitoring of a misdemeanor defendant or probationer unless the inadequate supervision or monitoring constitutes gross negligence. "Limited jurisdiction court" means a district court or a municipal court and anyone acting or operating at the direction of such court, including but not limited to its officers, employees, agents, contractors, and volunteers.

Summary of Substitute Bill:

Municipal courts or district courts may enter into interlocal agreements for pretrial and post judgment probation supervision services pursuant to Limited Jurisdiction Court Administration Rule 11. The presiding judge of each participating court must approve the interlocal agreement. The interlocal agreement may not require approval of the local legislative authority unless the interlocal agreement requires the expenditure of additional funds by the jurisdiction. Interlocal agreements for pretrial or post judgment probation supervision services:

- must not affect the jurisdiction of the court that imposes probation supervision;
- need not require the referral of all supervised cases by a jurisdiction; and
- may limit the referral for probation supervision services to a single case.

A judge of the jurisdiction hosting probation supervision services may impose sanctions on cases from another participating jurisdiction only if:

- an agreement has been reached by the applicable cities or counties on how jail costs and the costs of other sanctions will be shared by the hosting and participating jurisdictions; and
- the judgment and sentence or other order states that sanctions may be imposed by the host jurisdiction.

The Administrative Office of the Courts may develop a model interlocal agreement in cooperation with the District and Municipal Court Judges Association.

The monthly probation assessment of up to \$100 may be imposed by a host jurisdiction if the defendant is being supervised pursuant to an interlocal agreement for probation supervision services. Contracting parties may agree to the division of moneys received by the host jurisdiction for probation supervision services.

Interlocal agreements for probation supervision services are not subject to existing provisions applicable to interlocal agreements for court services that require arbitration when the parties are unable to agree on compensation levels and that prohibit termination of the agreement without meeting certain notice and time requirements. In addition, interlocal agreements for probation supervision services are not subject to the minimum term requirements that apply to interlocal contracts for jail services.

The limited immunity from civil liability that is provided to limited jurisdiction courts providing misdemeanor supervision services is extended to cover activities and persons acting at the direction of the court pursuant to an interlocal agreement.

Substitute Bill Compared to Original Bill:

The substitute bill removes language providing that local jurisdictions are responsible for probation supervision for adult misdemeanor offenders convicted for offenses committed within their jurisdictions and changes some references for consistency in terminology.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This legislation is brought forward by the District and Municipal Court Judges Association to help the judicial system manage those people who have committed crimes but are supervised in the community rather than sentenced to jail. The bill is creative and will allow jurisdictions to work together to streamline the probation process. Jurisdictions that do not have probation services because they lack the funds or are too small to establish probation departments will be able to contract with other jurisdictions to provide those

services. This is great for courts because it will help them increase public safety within their jurisdictions. It is also great for probationers with cases in multiple jurisdictions because it will allow them to be monitored through a probation system in just one jurisdiction that is closest to their home. There was a concern raised that the bill requires cities to have these departments, but that is not the intent and there is an amendment that makes clear that this is a voluntary option.

(Opposed) None.

(Other) The legislation extends immunity to private entities that provide probation services. These entities are engaging in inherent governmental functions, and so it is appropriate to extend immunity to them. They should provide some public oversight of private entities that provide probation services. It might be appropriate to have local prosecutors develop protocols governing how they operate.

Persons Testifying: (In support) Representative Irwin, prime sponsor; and Brett Buckley, District and Municipal Court Judges Association.

(Other) Arthur West.

Persons Signed In To Testify But Not Testifying: None.