

# HOUSE BILL REPORT

## HB 1294

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**As Reported by House Committee On:**  
Civil Rights & 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 Goodman, Davis, Macri and Ormsby.

**Brief History:**

**Committee Activity:**

Civil Rights & Judiciary: 1/27/21, 1/29/21 [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 the formation and scope of the interlocal agreements.
- 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.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Davis, Entenman, Goodman, Kirby, Klippert, Orwall, Peterson, Thai, Valdez and Ybarra.

**Staff:** Yelena Baker (786-7301).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of adult misdemeanor offenses committed by adults in the 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 responsibility through the use of their own courts, staff, and facilities, or by entering into interlocal agreements for these services. Negotiations for such contracts or agreements must consider the costs and revenues to provide these criminal justice services. If an agreement on the level of compensation cannot be reached, either party may invoke binding 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 (ARLJ) 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 ARLJ 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.

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**Summary of Substitute Bill:**

Municipal courts or district courts may enter into interlocal agreements for pretrial and post-judgment probation supervision services pursuant to ARLJ 11. The Administrative Office

of the Courts (AOC) must develop a model interlocal agreement in cooperation with the District and Municipal Court Judges Association and the Washington Association of Prosecuting Attorneys.

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.

The presiding judge of each participating court must approve the interlocal agreement. The interlocal agreement may not require approval of the local executive and legislative bodies unless the interlocal agreement requires the expenditure of additional funds by the jurisdiction.

If the jurisdiction providing probation supervision services is found liable for inadequate supervision or is impacted by increased costs pursuant to the interlocal agreement, the presiding judge of the jurisdiction imposing probation supervision must consult with the executive authority of the imposing jurisdiction and determine whether to terminate the interlocal agreement.

All proceedings to grant, modify, or revoke probation must be held in the court that imposes probation supervision. Jail costs and the cost of other sanctions remain with the jurisdiction that imposes probation supervision. A city or county may enter into an interlocal agreement for the sharing of costs for sanctions imposed by a jurisdiction hosting probation supervision services. Contracting parties may agree to the division of funds received for probation supervision services.

Interlocal agreements for probation supervision services are not subject to existing provisions applicable to interlocal agreements for course 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. Additionally, interlocal agreements for probation supervision services are not subject to the minimum term requirements that apply to interlocal agreements 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 provisions related to the authority of a judge of the jurisdiction hosting probation supervision services to impose sanctions on cases from another participating jurisdiction;

- provides that if the supervising jurisdiction is found liable for inadequate supervision or is impacted by increased costs pursuant to the interlocal agreement, the presiding judge of the jurisdiction imposing supervision shall consult with the executive authority of the jurisdiction imposing supervision and determine whether to terminate the interlocal agreement for probation supervision services;
- provides that all proceedings to grant, modify, or revoke probation must be held in the court that imposes probation supervision;
- specifies that jail costs and the cost of other sanctions remain with the jurisdiction imposing probation supervision;
- requires, rather than authorizes, the AOC to develop a model interlocal agreement and adds the Washington Association of Prosecuting Attorneys as an organization with which the AOC may cooperate in developing a model interlocal agreement;
- removes the limitation that a monthly probation assessment may only be imposed by a host jurisdiction if a defendant is being supervised pursuant to an interlocal agreement; and
- removes the reference to host jurisdiction in the provision related to funds received for probation services.

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**Appropriation:** None.

**Fiscal Note:** Preliminary 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 bill will allow for probation services to be transferred from one municipal or district court to another, so that people who have probation obligations in multiple courts can meet those obligations by meeting with a single probation officer instead of several. This can be done by interlocal agreements directly between presiding judges of district and municipal courts without the need to have the full interlocal agreement approved by the legislative authority of the cities and counties involved in the agreement.

(Opposed) None.

**Persons Testifying:** Representative Goodman, prime sponsor; Paul Wohl, District and Municipal Court Judges' Association; and Juliana Roe, Washington State Association of Counties.

**Persons Signed In To Testify But Not Testifying:** None.