

# FINAL BILL REPORT

## SHB 1189

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*Synopsis As Enacted*

**Brief Description:** Allowing courts to award costs for probation or deferred prosecution.

By House Committee on Judiciary (originally sponsored by Representatives Ludwig, Locke, Padden, Riley, Inslee, Paris, Mielke, Scott, H. Myers, R. Meyers and Orr).

House Committee on Judiciary  
Senate Committee on Law & Justice

**Background:** A defendant charged with a misdemeanor crime may, under certain circumstances, seek a deferred prosecution. The vast majority of deferred prosecutions occur in driving while intoxicated (DWI) cases. In order to get a deferral a defendant must show, among other things, that his or her conduct was the result of alcoholism or drug addiction. A defendant who is granted a deferral is not prosecuted for the crime if he or she successfully completes the required program of treatment.

As part of a deferred prosecution, the court is expressly authorized by a statute to impose probation in order to supervise the conduct of the defendant. In another statute, courts are authorized to impose on "misdemeanants" a monthly assessment of up to \$50 for probationary supervision. A person granted a deferred prosecution is not literally a "misdemeanant."

In misdemeanor cases generally, courts are also authorized to impose "costs" on a defendant. These costs may include only expenses "specially incurred by the state in prosecuting the defendant." These costs may not include expenses of providing a constitutionally guaranteed jury trial, or the general overhead of the criminal justice system. These costs may include such things as expenses for service of warrants for failure to appear.

The Washington Court of Appeals recently upheld a lower court ruling that the trial court may not impose administrative costs in deferred prosecutions as a condition of granting a deferral. The opinion also casts some doubt on whether the trial court may impose probation fees as part of a deferral.

**Summary:** In deferral of prosecution cases, trial courts are explicitly authorized to impose costs of up to \$150 and a monthly fee of up to \$50 for probation services.

***Votes on Final Passage:***

House	97	0
Senate	44	0

***Effective:*** July 28, 1991