

2 SHB 2533 - S AMD - 289
3 By Senators Hargrove and Long

4 ADOPTED 3/5/96

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9.95 RCW
8 to read as follows:

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

13 (2) A county legislative authority may assume responsibility for
14 the supervision of all defendants within its jurisdiction who have been
15 convicted of a misdemeanor or gross misdemeanor and sentenced to
16 probation by a superior court. The assumption of responsibility shall
17 be made by contract with the department of corrections on a biennial
18 basis.

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

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

26 (a) The county's agreement to supervise all misdemeanant
27 probationers who are sentenced by a superior court within that county
28 and who reside within that county;

29 (b) A reciprocal agreement regarding the supervision of superior
30 court misdemeanant probationers sentenced in one county but who reside
31 in another county;

32 (c) The county's agreement to comply with the minimum standards for
33 classification and supervision of offenders as required under section
34 2 of this act;

35 (d) The amount of funds available from the department of
36 corrections to the county for supervision of superior court

1 misdemeanor probationers, calculated according to a formula
2 established by the department of corrections;

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

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

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

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

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

16 (5) If the contract between the county and the department of
17 corrections is terminated for any reason, the department of corrections
18 shall reassume responsibility for supervision of superior court
19 misdemeanor probationers within that county. In such an event, the
20 department of corrections retains any and all rights and remedies
21 available by law and under the contract.

22 (6) The state of Washington and the department of corrections are
23 immune from civil liability for any harm caused by the actions of a
24 superior court misdemeanor probationer who is under the supervision of
25 a county. A county is immune from civil liability for any harm caused
26 by the actions of a superior court misdemeanor probationer who is
27 under the supervision of the department of corrections. The immunity
28 granted under this subsection applies regardless of whether the
29 supervising agency is in compliance with the standards of supervision
30 at the time of the misdemeanor probationer's actions.

31 (7) The state of Washington, the department of corrections and its
32 employees, community corrections officers, any county under contract
33 with the department of corrections pursuant to this section and its
34 employees, probation officers, and volunteers who assist community
35 corrections officers and probation officers in the superior court
36 misdemeanor probation program are not liable for civil damages
37 resulting from any act or omission in the rendering of superior court
38 misdemeanor probation activities unless the act or omission

1 constitutes gross negligence. For purposes of this section,
2 "volunteers" is defined according to RCW 51.12.035.

3 (8) If sufficient resources are not available for the department of
4 corrections, or the county assuming supervision responsibility, to
5 comply with the minimum standards of supervision required by section 2
6 of this act, the state of Washington and the department of corrections,
7 or the county, is immune from civil liability for any harm caused by an
8 inability to comply with the standards of supervision.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.95 RCW
10 to read as follows:

11 (1) Probation supervision of misdemeanor offenders sentenced in a
12 superior court must be based upon an offender classification system and
13 supervision standards.

14 (2) Any entity under contract with the department of corrections
15 pursuant to section 1 of this act shall establish and maintain a
16 classification system that:

17 (a) Provides for a standardized assessment of offender risk;

18 (b) Differentiates between higher and lower risk offenders based on
19 criminal history and current offense;

20 (c) Assigns cases to a level of supervision based on assessed risk;

21 (d) Provides, at a minimum, three levels of supervision;

22 (e) Provides for periodic review of an offender's classification
23 level during the term of supervision; and

24 (f) Structures the discretion and decision making of supervising
25 officers.

26 (3) Any entity under contract with the department of corrections
27 pursuant to section 1 of this act may establish and maintain
28 supervision standards that:

29 (a) Identify the frequency and nature of offender contact within
30 each of at least three classification levels;

31 (b) Provide for a minimum of one face-to-face contact each month
32 with offenders classified at the highest level of risk;

33 (c) Provide for a minimum of one personal contact per quarter for
34 lower-risk offenders;

35 (d) Provide for specific reporting requirements for offenders
36 within each level of the classification system;

37 (e) Assign higher-risk offenders to staff trained to deal with
38 higher-risk offenders;

1 (f) Verify compliance with sentence conditions imposed by the
2 court; and

3 (g) Report to the court violations of sentence conditions as
4 appropriate.

5 (4) Under no circumstances may an entity under contract with the
6 department of corrections pursuant to section 1 of this act establish
7 or maintain supervision that is less stringent than that offered by the
8 department.

9 (5) The minimum supervision standards established and maintained by
10 the department of corrections shall provide for no less than one
11 contact per quarter for misdemeanor probationers under its
12 jurisdiction. The contact shall be a personal interaction accomplished
13 either face-to-face or by telephone, unless the department finds that
14 the individual circumstances of the offender do not require personal
15 interaction to meet the objectives of the supervision. The
16 circumstances under which the department may find that an offender does
17 not require personal interaction are limited to the following: (a) The
18 offender has no special conditions or crime-related prohibitions
19 imposed by the court other than legal financial obligations; and (b)
20 the offender poses minimal risk to public safety.

21 (6) The classification system and supervision standards must be
22 established and met within the resources available as provided for by
23 the legislature and the cost of supervision assessments collected, and
24 may be enhanced by funds otherwise generated by the supervising entity.

25 **Sec. 3.** RCW 9.95.210 and 1995 1st sp.s. c 19 s 29 are each amended
26 to read as follows:

27 (1) In granting probation, the superior court may suspend the
28 imposition or the execution of the sentence and may direct that the
29 suspension may continue upon such conditions and for such time as it
30 shall designate, not exceeding the maximum term of sentence or two
31 years, whichever is longer.

32 (2) In the order granting probation and as a condition thereof, the
33 superior court may in its discretion imprison the defendant in the
34 county jail for a period not exceeding one year and may fine the
35 defendant any sum not exceeding the statutory limit for the offense
36 committed, and court costs. As a condition of probation, the superior
37 court shall require the payment of the penalty assessment required by
38 RCW 7.68.035. The superior court may also require the defendant to

1 make such monetary payments, on such terms as it deems appropriate
2 under the circumstances, as are necessary: (a) To comply with any order
3 of the court for the payment of family support; (b) to make restitution
4 to any person or persons who may have suffered loss or damage by reason
5 of the commission of the crime in question or when the offender pleads
6 guilty to a lesser offense or fewer offenses and agrees with the
7 prosecutor's recommendation that the offender be required to pay
8 restitution to a victim of an offense or offenses which are not
9 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
10 imposed and court costs, including reimbursement of the state for costs
11 of extradition if return to this state by extradition was required; (d)
12 following consideration of the financial condition of the person
13 subject to possible electronic monitoring, to pay for the costs of
14 electronic monitoring if that monitoring was required by the court as
15 a condition of release from custody or as a condition of probation; (e)
16 to contribute to a county or interlocal drug fund; and (f) to make
17 restitution to a public agency for the costs of an emergency response
18 under RCW 38.52.430, and may require bonds for the faithful observance
19 of any and all conditions imposed in the probation.

20 (3) The superior court shall order restitution in all cases where
21 the victim is entitled to benefits under the crime victims'
22 compensation act, chapter 7.68 RCW. If the superior court does not
23 order restitution and the victim of the crime has been determined to be
24 entitled to benefits under the crime victims' compensation act, the
25 department of labor and industries, as administrator of the crime
26 victims' compensation program, may petition the superior court within
27 one year of imposition of the sentence for entry of a restitution
28 order. Upon receipt of a petition from the department of labor and
29 industries, the superior court shall hold a restitution hearing and
30 shall enter a restitution order.

31 (4) In granting probation, the superior court may order the
32 probationer to report to the secretary of corrections or such officer
33 as the secretary may designate and as a condition of the probation to
34 follow the instructions of the secretary. If the county legislative
35 authority has elected to assume responsibility for the supervision of
36 superior court misdemeanor probationers within its jurisdiction, the
37 superior court misdemeanor probationer shall report to a probation
38 officer employed or contracted for by the county. In cases where a
39 superior court misdemeanor probationer is sentenced in one county, but

1 resides within another county, there must be provisions for the
2 probationer to report to the agency having supervision responsibility
3 for the probationer's county of residence.

4 (5) If the probationer has been ordered to make restitution and the
5 superior court has ordered supervision, the officer supervising the
6 probationer shall make a reasonable effort to ascertain whether
7 restitution has been made. If the superior court has ordered
8 supervision and restitution has not been made as ordered, the officer
9 shall inform the prosecutor of that violation of the terms of probation
10 not less than three months prior to the termination of the probation
11 period. The secretary of corrections will promulgate rules and
12 regulations for the conduct of the person during the term of probation.
13 For defendants found guilty in district court, like functions as the
14 secretary performs in regard to probation may be performed by probation
15 officers employed for that purpose by the county legislative authority
16 of the county wherein the court is located.

17 **Sec. 4.** RCW 9.95.214 and 1995 1st sp.s. c 19 s 32 are each amended
18 to read as follows:

19 Whenever a defendant convicted of a misdemeanor or gross
20 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and
21 the defendant is supervised by the department of corrections or a
22 county probation department, the department or county probation
23 department may assess and collect from the defendant for the duration
24 of the term of supervision a monthly assessment not to exceed one
25 hundred dollars per month. This assessment shall be paid to the
26 ((department)) agency supervising the defendant and shall be applied,
27 along with funds appropriated by the legislature, toward the payment or
28 part payment of the cost of supervising the defendant.

29 **Sec. 5.** RCW 9.92.060 and 1995 1st sp.s. c 19 s 30 are each amended
30 to read as follows:

31 (1) Whenever any person is convicted of any crime except murder,
32 burglary in the first degree, arson in the first degree, robbery, rape
33 of a child, or rape, the superior court may, in its discretion, at the
34 time of imposing sentence upon such person, direct that such sentence
35 be stayed and suspended until otherwise ordered by ((such)) the
36 superior court, and that the sentenced person be placed under the
37 charge of a community corrections officer employed by the department of

1 corrections, or if the county elects to assume responsibility for the
2 supervision of all superior court misdemeanor probationers a probation
3 officer employed or contracted for by the county, upon such terms as
4 the superior court may determine.

5 (2) As a condition to suspension of sentence, the superior court
6 shall require the payment of the penalty assessment required by RCW
7 7.68.035. In addition, the superior court may require the convicted
8 person to make such monetary payments, on such terms as the superior
9 court deems appropriate under the circumstances, as are necessary: (a)
10 To comply with any order of the court for the payment of family
11 support; (b) to make restitution to any person or persons who may have
12 suffered loss or damage by reason of the commission of the crime in
13 question or when the offender pleads guilty to a lesser offense or
14 fewer offenses and agrees with the prosecutor's recommendation that the
15 offender be required to pay restitution to a victim of an offense or
16 offenses which are not prosecuted pursuant to a plea agreement; (c) to
17 pay any fine imposed and not suspended and the court or other costs
18 incurred in the prosecution of the case, including reimbursement of the
19 state for costs of extradition if return to this state by extradition
20 was required; and (d) to contribute to a county or interlocal drug
21 fund.

22 (3) As a condition of the suspended sentence, the superior court
23 may order the probationer to report to the secretary of corrections or
24 such officer as the secretary may designate and as a condition of the
25 probation to follow the instructions of the secretary. If the county
26 legislative authority has elected to assume responsibility for the
27 supervision of superior court misdemeanor probationers within its
28 jurisdiction, the superior court misdemeanor probationer shall report
29 to a probation officer employed or contracted for by the county. In
30 cases where a superior court misdemeanor probationer is sentenced in
31 one county, but resides within another county, there must be provisions
32 for the probationer to report to the agency having supervision
33 responsibility for the probationer's county of residence.

34 (4) If restitution to the victim has been ordered under subsection
35 (2)(b) of this section and the superior court has ordered supervision,
36 the officer supervising the probationer shall make a reasonable effort
37 to ascertain whether restitution has been made as ordered. If the
38 superior court has ordered supervision and restitution has not been
39 made, the officer shall inform the prosecutor of that violation of the

1 terms of the suspended sentence not less than three months prior to the
2 termination of the suspended sentence.

3 **Sec. 6.** RCW 10.64.120 and 1991 c 247 s 3 are each amended to read
4 as follows:

5 (1) Every judge of a court of limited jurisdiction shall have the
6 authority to levy upon a person a monthly assessment not to exceed
7 ~~((fifty))~~ one hundred dollars for services provided whenever ((a)) the
8 person is referred by the court to the misdemeanant probation
9 department for evaluation or supervision services. The assessment may
10 also be made by a ~~((sentencing))~~ judge in superior court when such
11 misdemeanor or gross misdemeanor cases are heard in the superior court.

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

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

30 ~~((+3))~~ (4) Revenues raised under this section shall be used to
31 fund programs for probation services and shall be in addition to those
32 funds provided in RCW 3.62.050.

33 **Sec. 7.** RCW 36.01.070 and 1967 c 200 s 9 are each amended to read
34 as follows:

35 Notwithstanding the provisions of chapter 72.01 RCW or any other
36 provision of law, counties may engage in probation and parole services
37 and employ personnel therefor under such terms and conditions as any

1 such county shall so determine. If a county elects to assume
2 responsibility for the supervision of superior court misdemeanant
3 offenders placed on probation under RCW 9.92.060 or 9.95.210, the
4 county may contract with other counties to receive or provide such
5 probation services. A county may also enter into partnership
6 agreements with the department of corrections under RCW 72.09.300."

7 **SHB 2533** - S AMD - 289
8 By Senators Hargrove and Long

9 ADOPTED 3/5/96

10 On page 1, line 1 of the title, after "services;" strike the
11 remainder of the title and insert "amending RCW 9.95.210, 9.95.214,
12 9.92.060, 10.64.120, and 36.01.070; and adding new sections to chapter
13 9.95 RCW."

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