

2 SSB 6208 - S AMD - 112  
3 By Senators Hargrove and Long

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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  
8 RCW 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  
15 been convicted of a misdemeanor or gross misdemeanor and sentenced to  
16 probation by a superior court. The assumption of responsibility  
17 shall be made by contract with the department of corrections on a  
18 biennial 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  
31 reside in another county;

32 (c) The county's agreement to comply with the minimum standards  
33 for classification and supervision of offenders as required under  
34 section 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  
7 supervision 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  
18 corrections shall reassume responsibility for supervision of superior  
19 court misdemeanor probationers within that county. In such an  
20 event, the department of corrections retains any and all rights and  
21 remedies available by law and under the contract.

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

31 (7) The department and its officials and employees, or in cases  
32 where a county assumes supervision responsibility, the county and its  
33 officials and employees, are immune from civil liability for any harm  
34 arising out of the good faith performance of their duties and for any  
35 harm caused by the actions of superior court misdemeanor  
36 probationers under their supervision.

37 (8) If sufficient resources are not available for the department  
38 of corrections, or the county assuming supervision responsibility, to  
39 comply with the minimum standards of supervision required by section

1 2 of this act, the department of corrections, or the county, is  
2 immune from civil liability for any harm caused by an inability to  
3 comply with the standards of supervision.

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

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

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

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

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

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

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

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

20 (f) Structures the discretion and decision making of supervising  
21 officers.

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

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

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

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

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

33 (e) Assign higher-risk offenders to staff trained to deal with  
34 higher-risk offenders;

35 (f) Verify compliance with sentence conditions imposed by the  
36 court; and

37 (g) Report to the court violations of sentence conditions as  
38 appropriate.

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

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

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

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

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

30 (2) In the order granting probation and as a condition thereof,  
31 the superior court may in its discretion imprison the defendant in  
32 the county jail for a period not exceeding one year and may fine the  
33 defendant any sum not exceeding the statutory limit for the offense  
34 committed, and court costs. As a condition of probation, the  
35 superior court shall require the payment of the penalty assessment  
36 required by RCW 7.68.035. The superior court may also require the  
37 defendant to make such monetary payments, on such terms as it deems  
38 appropriate under the circumstances, as are necessary: (a) To comply

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

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

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

1 probationer to report to the agency having supervision responsibility  
2 for the probationer's county of residence.

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

17 **Sec. 4.** RCW 9.95.214 and 1995 1st sp.s. c 19 s 32 are each  
18 amended 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,  
21 and 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  
28 or 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  
30 amended 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,  
33 rape of a child, or rape, the superior court may, in its discretion,  
34 at the time of imposing sentence upon such person, direct that such  
35 sentence be stayed and suspended until otherwise ordered by ((such))  
36 the superior court, and that the sentenced person be placed under the  
37 charge of a community corrections officer employed by the department

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

10 (a) 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  
12 have suffered loss or damage by reason of the commission of the crime  
13 in question or when the offender pleads guilty to a lesser offense or  
14 fewer offenses and agrees with the prosecutor's recommendation that  
15 the offender be required to pay restitution to a victim of an offense  
16 or offenses which are not prosecuted pursuant to a plea agreement;  
17 (c) to pay any fine imposed and not suspended and the court or other  
18 costs incurred in the prosecution of the case, including  
19 reimbursement of the state for costs of extradition if return to this  
20 state by extradition was required; and (d) to contribute to a county  
21 or interlocal drug 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  
24 or such officer as the secretary may designate and as a condition of  
25 the probation to follow the instructions of the secretary. If the  
26 county legislative authority has elected to assume responsibility for  
27 the supervision of superior court misdemeanor probationers within  
28 its jurisdiction, the superior court misdemeanor probationer shall  
29 report to a probation officer employed or contracted for by the  
30 county. In cases where a superior court misdemeanor probationer is  
31 sentenced in one county, but resides within another county, there  
32 must be provisions for the probationer to report to the agency having  
33 supervision responsibility for the probationer's county of residence.

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

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

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

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

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

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

33 ~~((+3))~~ (4) Revenues raised under this section shall be used to  
34 fund programs for probation services and shall be in addition to  
35 those funds provided in RCW 3.62.050.

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



1           Notwithstanding the provisions of chapter 72.01 RCW or any other  
2 provision of law, counties may engage in probation and parole  
3 services and employ personnel therefor under such terms and  
4 conditions as any such county shall so determine. If a county elects  
5 to assume responsibility for the supervision of superior court  
6 misdemeanant offenders placed on probation under RCW 9.92.060 or  
7 9.95.210, the county may contract with other counties to receive or  
8 provide such probation services. A county may also enter into  
9 partnership agreements with the department of corrections under RCW  
10 72.09.300."

11 **SSB 6208** - S AMD - 112  
12           By Senators Hargrave and Long

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14           On page 1, line 1 of the title, after "services;" strike the  
15 remainder of the title and insert "amending RCW 9.95.210, 9.95.214,  
16 9.92.060, 10.64.120, and 36.01.070; and adding new sections to  
17 chapter 9.95 RCW."

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