

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2533

Chapter 298, Laws of 1996

54th Legislature
1996 Regular Session

MISDEMEANANT PROBATION SERVICES--REVISIONS

EFFECTIVE DATE: 6/6/96

Passed by the House March 7, 1996
Yeas 98 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 7, 1996
Yeas 46 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 30, 1996

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2533** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 30, 1996 - 4:32 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2533

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Hickel, Sheahan, Cody, Sterk, Smith, Morris and Dellwo)

Read first time 02/02/96.

1 AN ACT Relating to misdemeanor probation services; amending RCW
2 9.95.210, 9.95.214, 9.92.060, 10.64.120, and 36.01.070; and adding new
3 sections to chapter 9.95 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.95 RCW
6 to read as follows:

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

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

17 (3) If a county assumes supervision responsibility, the county
18 shall supervise all superior court misdemeanor probationers within

1 that county for the duration of the biennium, as set forth in the
2 contract with the department of corrections.

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

6 (a) The county's agreement to supervise all misdemeanor
7 probationers who are sentenced by a superior court within that county
8 and who reside within that county;

9 (b) A reciprocal agreement regarding the supervision of superior
10 court misdemeanor probationers sentenced in one county but who reside
11 in another county;

12 (c) The county's agreement to comply with the minimum standards for
13 classification and supervision of offenders as required under section
14 2 of this act;

15 (d) The amount of funds available from the department of
16 corrections to the county for supervision of superior court
17 misdemeanor probationers, calculated according to a formula
18 established by the department of corrections;

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

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

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

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

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

32 (5) If the contract between the county and the department of
33 corrections is terminated for any reason, the department of corrections
34 shall reassume responsibility for supervision of superior court
35 misdemeanor probationers within that county. In such an event, the
36 department of corrections retains any and all rights and remedies
37 available by law and under the contract.

38 (6) The state of Washington, the department of corrections and its
39 employees, community corrections officers, and volunteers who assist

1 community corrections officers are not liable for any harm caused by
2 the actions of a superior court misdemeanant probationer who is under
3 the supervision of a county. A county, its probation department and
4 employees, probation officers, and volunteers who assist probation
5 officers are not liable for any harm caused by the actions of a
6 superior court misdemeanant probationer who is under the supervision of
7 the department of corrections. This subsection applies regardless of
8 whether the supervising entity is in compliance with the standards of
9 supervision at the time of the misdemeanant probationer's actions.

10 (7) The state of Washington, the department of corrections and its
11 employees, community corrections officers, any county under contract
12 with the department of corrections pursuant to this section and its
13 employees, probation officers, and volunteers who assist community
14 corrections officers and probation officers in the superior court
15 misdemeanant probation program are not liable for civil damages
16 resulting from any act or omission in the rendering of superior court
17 misdemeanant probation activities unless the act or omission
18 constitutes gross negligence. For purposes of this section,
19 "volunteers" is defined according to RCW 51.12.035.

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

22 (1) Probation supervision of misdemeanant offenders sentenced in a
23 superior court must be based upon an offender classification system and
24 supervision standards.

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

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

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

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

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

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

35 (f) Structures the discretion and decision making of supervising
36 officers.

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

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

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

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

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

12 (e) Assign higher-risk offenders to staff trained to deal with
13 higher-risk offenders;

14 (f) Verify compliance with sentence conditions imposed by the
15 court; and

16 (g) Report to the court violations of sentence conditions as
17 appropriate.

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

22 (5) The minimum supervision standards established and maintained by
23 the department of corrections shall provide for no less than one
24 contact per quarter for misdemeanor probationers under its
25 jurisdiction. The contact shall be a personal interaction accomplished
26 either face-to-face or by telephone, unless the department finds that
27 the individual circumstances of the offender do not require personal
28 interaction to meet the objectives of the supervision. The
29 circumstances under which the department may find that an offender does
30 not require personal interaction are limited to the following: (a) The
31 offender has no special conditions or crime-related prohibitions
32 imposed by the court other than legal financial obligations; and (b)
33 the offender poses minimal risk to public safety.

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

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

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

8 (2) In the order granting probation and as a condition thereof, the
9 superior court may in its discretion imprison the defendant in the
10 county jail for a period not exceeding one year and may fine the
11 defendant any sum not exceeding the statutory limit for the offense
12 committed, and court costs. As a condition of probation, the superior
13 court shall require the payment of the penalty assessment required by
14 RCW 7.68.035. The superior court may also require the defendant to
15 make such monetary payments, on such terms as it deems appropriate
16 under the circumstances, as are necessary: (a) To comply with any order
17 of the court for the payment of family support; (b) to make restitution
18 to any person or persons who may have suffered loss or damage by reason
19 of the commission of the crime in question or when the offender pleads
20 guilty to a lesser offense or fewer offenses and agrees with the
21 prosecutor's recommendation that the offender be required to pay
22 restitution to a victim of an offense or offenses which are not
23 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
24 imposed and court costs, including reimbursement of the state for costs
25 of extradition if return to this state by extradition was required; (d)
26 following consideration of the financial condition of the person
27 subject to possible electronic monitoring, to pay for the costs of
28 electronic monitoring if that monitoring was required by the court as
29 a condition of release from custody or as a condition of probation; (e)
30 to contribute to a county or interlocal drug fund; and (f) to make
31 restitution to a public agency for the costs of an emergency response
32 under RCW 38.52.430, and may require bonds for the faithful observance
33 of any and all conditions imposed in the probation.

34 (3) The superior court shall order restitution in all cases where
35 the victim is entitled to benefits under the crime victims'
36 compensation act, chapter 7.68 RCW. If the superior court does not
37 order restitution and the victim of the crime has been determined to be
38 entitled to benefits under the crime victims' compensation act, the
39 department of labor and industries, as administrator of the crime

1 victims' compensation program, may petition the superior court within
2 one year of imposition of the sentence for entry of a restitution
3 order. Upon receipt of a petition from the department of labor and
4 industries, the superior court shall hold a restitution hearing and
5 shall enter a restitution order.

6 (4) In granting probation, the superior court may order the
7 probationer to report to the secretary of corrections or such officer
8 as the secretary may designate and as a condition of the probation to
9 follow the instructions of the secretary. If the county legislative
10 authority has elected to assume responsibility for the supervision of
11 superior court misdemeanor probationers within its jurisdiction, the
12 superior court misdemeanor probationer shall report to a probation
13 officer employed or contracted for by the county. In cases where a
14 superior court misdemeanor probationer is sentenced in one county, but
15 resides within another county, there must be provisions for the
16 probationer to report to the agency having supervision responsibility
17 for the probationer's county of residence.

18 (5) If the probationer has been ordered to make restitution and the
19 superior court has ordered supervision, the officer supervising the
20 probationer shall make a reasonable effort to ascertain whether
21 restitution has been made. If the superior court has ordered
22 supervision and restitution has not been made as ordered, the officer
23 shall inform the prosecutor of that violation of the terms of probation
24 not less than three months prior to the termination of the probation
25 period. The secretary of corrections will promulgate rules and
26 regulations for the conduct of the person during the term of probation.
27 For defendants found guilty in district court, like functions as the
28 secretary performs in regard to probation may be performed by probation
29 officers employed for that purpose by the county legislative authority
30 of the county wherein the court is located.

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

33 Whenever a defendant convicted of a misdemeanor or gross
34 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and
35 the defendant is supervised by the department of corrections or a
36 county probation department, the department or county probation
37 department may assess and collect from the defendant for the duration
38 of the term of supervision a monthly assessment not to exceed one

1 hundred dollars per month. This assessment shall be paid to the
2 ((department)) agency supervising the defendant and shall be applied,
3 along with funds appropriated by the legislature, toward the payment or
4 part payment of the cost of supervising the defendant.

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

7 (1) Whenever any person is convicted of any crime except murder,
8 burglary in the first degree, arson in the first degree, robbery, rape
9 of a child, or rape, the superior court may, in its discretion, at the
10 time of imposing sentence upon such person, direct that such sentence
11 be stayed and suspended until otherwise ordered by ((such)) the
12 superior court, and that the sentenced person be placed under the
13 charge of a community corrections officer employed by the department of
14 corrections, or if the county elects to assume responsibility for the
15 supervision of all superior court misdemeanant probationers a probation
16 officer employed or contracted for by the county, upon such terms as
17 the superior court may determine.

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

35 (3) As a condition of the suspended sentence, the superior court
36 may order the probationer to report to the secretary of corrections or
37 such officer as the secretary may designate and as a condition of the
38 probation to follow the instructions of the secretary. If the county

1 legislative authority has elected to assume responsibility for the
2 supervision of superior court misdemeanor probationers within its
3 jurisdiction, the superior court misdemeanor probationer shall report
4 to a probation officer employed or contracted for by the county. In
5 cases where a superior court misdemeanor probationer is sentenced in
6 one county, but resides within another county, there must be provisions
7 for the probationer to report to the agency having supervision
8 responsibility for the probationer's county of residence.

9 (4) If restitution to the victim has been ordered under subsection
10 (2)(b) of this section and the superior court has ordered supervision,
11 the officer supervising the probationer shall make a reasonable effort
12 to ascertain whether restitution has been made as ordered. If the
13 superior court has ordered supervision and restitution has not been
14 made, the officer shall inform the prosecutor of that violation of the
15 terms of the suspended sentence not less than three months prior to the
16 termination of the suspended sentence.

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

19 (1) Every judge of a court of limited jurisdiction shall have the
20 authority to levy upon a person a monthly assessment not to exceed
21 ((fifty)) one hundred dollars for services provided whenever ((a)) the
22 person is referred by the court to the misdemeanor probation
23 department for evaluation or supervision services. The assessment may
24 also be made by a ((sentencing)) judge in superior court when such
25 misdemeanor or gross misdemeanor cases are heard in the superior court.

26 (2) For the purposes of this section the office of the
27 administrator for the courts shall define a probation department and
28 adopt rules for the qualifications of probation officers based on
29 occupational and educational requirements developed by an oversight
30 committee. This oversight committee shall include a representative
31 from the district and municipal court judges association, the
32 misdemeanant corrections association, the office of the administrator
33 for the courts, and associations of cities and counties. The oversight
34 committee shall consider qualifications that provide the training and
35 education necessary to (a) conduct presentencing and postsentencing
36 background investigations, including sentencing recommendations to the
37 court regarding jail terms, alternatives to incarceration, and

1 conditions of release; and (b) provide ongoing supervision and
2 assessment of offenders' needs and the risk they pose to the community.

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

7 ~~((3))~~ (4) Revenues raised under this section shall be used to
8 fund programs for probation services and shall be in addition to those
9 funds provided in RCW 3.62.050.

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

12 Notwithstanding the provisions of chapter 72.01 RCW or any other
13 provision of law, counties may engage in probation and parole services
14 and employ personnel therefor under such terms and conditions as any
15 such county shall so determine. If a county elects to assume
16 responsibility for the supervision of superior court misdemeanor
17 offenders placed on probation under RCW 9.92.060 or 9.95.210, the
18 county may contract with other counties to receive or provide such
19 probation services. A county may also enter into partnership
20 agreements with the department of corrections under RCW 72.09.300.

Passed the House March 7, 1996.

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