

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1294

Chapter 41, Laws of 2021

67th Legislature
2021 Regular Session

MISDEMEANANT SUPERVISION SERVICES—INTERLOCAL AGREEMENTS

EFFECTIVE DATE: July 25, 2021

Passed by the House February 24, 2021
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 3, 2021
Yeas 46 Nays 0

DENNY HECK

President of the Senate

Approved April 14, 2021 3:24 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1294** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 15, 2021

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1294

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By House Civil Rights & Judiciary (originally sponsored by
Representatives Goodman, Davis, Macri, and Ormsby)

READ FIRST TIME 02/02/21.

1 AN ACT Relating to misdemeanor supervision services by limited
2 jurisdiction courts; amending RCW 4.24.760, 39.34.180, and 70.48.090;
3 and reenacting and amending RCW 10.64.120.

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

5 **Sec. 1.** RCW 4.24.760 and 2007 c 174 s 2 are each amended to read
6 as follows:

7 (1) A limited jurisdiction court that provides misdemeanor
8 supervision services is not liable for civil damages based on the
9 inadequate supervision or monitoring of a misdemeanor defendant or
10 probationer unless the inadequate supervision or monitoring
11 constitutes gross negligence.

12 (2) For the purposes of this section:

13 (a) "Limited jurisdiction court" means a district court or a
14 municipal court, and anyone acting or operating at the direction of
15 such court, including but not limited to its officers, employees,
16 agents, contractors, ~~((and))~~ volunteers, and others acting pursuant
17 to an interlocal agreement.

18 (b) "Misdemeanant supervision services" means preconviction or
19 postconviction misdemeanor probation or supervision services, or the
20 monitoring of a misdemeanor defendant's compliance with a
21 preconviction or postconviction order of the court, including but not

1 limited to community corrections programs, probation supervision,
2 pretrial supervision, or pretrial release services, including such
3 services conducted pursuant to an interlocal agreement.

4 (3) This section does not create any duty and shall not be
5 construed to create a duty where none exists. Nothing in this section
6 shall be construed to affect judicial immunity.

7 **Sec. 2.** RCW 39.34.180 and 2001 c 68 s 4 are each amended to read
8 as follows:

9 (1) Each county, city, and town is responsible for the
10 prosecution, adjudication, sentencing, and incarceration of
11 misdemeanor and gross misdemeanor offenses committed by adults in
12 their respective jurisdictions, and referred from their respective
13 law enforcement agencies, whether filed under state law or city
14 ordinance, and must carry out these responsibilities through the use
15 of their own courts, staff, and facilities, or by entering into
16 contracts or interlocal agreements under this chapter to provide
17 these services. Nothing in this section is intended to alter the
18 statutory responsibilities of each county for the prosecution,
19 adjudication, sentencing, and incarceration for not more than one
20 year of felony offenders, nor shall this section apply to any offense
21 initially filed by the prosecuting attorney as a felony offense or an
22 attempt to commit a felony offense. The court of any county, city, or
23 town that wishes to offer probation supervision services may enter
24 into interlocal agreements under subsection (6) of this section to
25 provide those services.

26 (2) The following principles must be followed in negotiating
27 interlocal agreements or contracts: Cities and counties must consider
28 (a) anticipated costs of services; and (b) anticipated and potential
29 revenues to fund the services, including fines and fees, criminal
30 justice funding, and state-authorized sales tax funding levied for
31 criminal justice purposes.

32 (3) If an agreement as to the levels of compensation within an
33 interlocal agreement or contract for gross misdemeanor and
34 misdemeanor services cannot be reached between a city and county,
35 then either party may invoke binding arbitration on the compensation
36 issued by notice to the other party. In the case of establishing
37 initial compensation, the notice shall request arbitration within
38 thirty days. In the case of nonrenewal of an existing contract or
39 interlocal agreement, the notice must be given one hundred twenty

1 days prior to the expiration of the existing contract or agreement
2 and the existing contract or agreement remains in effect until a new
3 agreement is reached or until an arbitration award on the matter of
4 fees is made. The city and county each select one arbitrator, and the
5 initial two arbitrators pick a third arbitrator. This subsection does
6 not apply to the extent that the interlocal agreement is for
7 probation supervision services.

8 (4) A city or county that wishes to terminate an agreement for
9 the provision of court services must provide written notice of the
10 intent to terminate the agreement in accordance with RCW 3.50.810 and
11 35.20.010. This subsection does not apply to the extent that the
12 interlocal agreement is for probation supervision services.

13 (5) For cities or towns that have not adopted, in whole or in
14 part, criminal code or ordinance provisions related to misdemeanor
15 and gross misdemeanor crimes as defined by state law, this section
16 shall have no application until July 1, 1998.

17 (6) Municipal courts or district courts may enter into interlocal
18 agreements for pretrial and/or post judgment probation supervision
19 services pursuant to ARLJ 11. Such agreements shall not affect the
20 jurisdiction of the court that imposes probation supervision, need
21 not require the referral of all supervised cases by a jurisdiction,
22 and may limit the referral for probation supervision services to a
23 single case. An agreement for probation supervision services is not
24 valid unless approved by the presiding judge of each participating
25 court. The interlocal agreement may not require approval of the local
26 executive and legislative bodies unless the interlocal agreement
27 requires the expenditure of additional funds by the jurisdiction. If
28 the jurisdiction providing probation supervision services is found
29 liable for inadequate supervision, as provided in RCW 4.24.760(1), or
30 is impacted by increased costs pursuant to the interlocal agreement,
31 the presiding judge of the jurisdiction imposing probation
32 supervision shall consult with the executive authority of the
33 jurisdiction imposing probation supervision and determine whether to
34 terminate the interlocal agreement for probation supervision
35 services. All proceedings to grant, modify, or revoke probation must
36 be held in the court that imposes probation supervision. Jail costs
37 and the cost of other sanctions remain with the jurisdiction that
38 imposes probation supervision.

39 The administrative office of the courts, in cooperation with the
40 district and municipal court judges association and the Washington

1 association of prosecuting attorneys, shall develop a model
2 interlocal agreement.

3 **Sec. 3.** RCW 70.48.090 and 2007 c 13 s 1 are each amended to read
4 as follows:

5 (1) Contracts for jail services may be made between a county and
6 a city, and among counties and cities. The contracts shall: Be in
7 writing, give one governing unit the responsibility for the operation
8 of the jails, specify the responsibilities of each governing unit
9 involved, and include the applicable charges for custody of the
10 prisoners as well as the basis for adjustments in the charges. The
11 contracts may be terminated only by ninety days written notice to the
12 governing units involved and to the office. The notice shall state
13 the grounds for termination and the specific plans for accommodating
14 the affected jail population.

15 (2) A city or county may contract for jail services with an
16 adjacent county, or city in an adjacent county, in a neighboring
17 state. A person convicted in the courts of this state and sentenced
18 to a term of confinement in a city or county jail may be transported
19 to a jail in the adjacent county to be confined until: (a) The term
20 of confinement is completed; or (b) that person is returned to be
21 confined in a city or county jail in this state.

22 (3) The contract authorized in subsection (1) of this section
23 shall be for a minimum term of ten years when state funds are
24 provided to construct or remodel a jail in one governing unit that
25 will be used to house prisoners of other governing units. The
26 contract may not be terminated prior to the end of the term without
27 the office's approval. If the contract is terminated, or upon the
28 expiration and nonrenewal of the contract, the governing unit whose
29 jail facility was built or remodeled to hold the prisoners of other
30 governing units shall pay to the state treasurer the amount set by
31 the corrections standards board or office when it authorized
32 disbursement of state funds for the remodeling or construction under RCW
33 70.48.120. This amount shall be deposited in the local jail
34 improvement and construction account and shall fairly represent the
35 construction costs incurred in order to house prisoners from other
36 governing units. The office may pay the funds to the governing units
37 which had previously contracted for jail services under rules which
38 the office may adopt. The acceptance of state funds for constructing
39 or remodeling consolidated jail facilities constitutes agreement to

1 the proportionate amounts set by the office. Notice of the
2 proportionate amounts shall be given to all governing units involved.
3 This subsection shall not apply to interlocal agreements under RCW
4 39.34.180(6).

5 (4) A city or county primarily responsible for the operation of a
6 jail or jails may create a department of corrections to be in charge
7 of such jail and of all persons confined therein by law, subject to
8 the authority of the governing unit. If such department is created,
9 it shall have charge of jails and persons confined therein. If no
10 such department of corrections is created, the chief law enforcement
11 officer of the city or county primarily responsible for the operation
12 of said jail shall have charge of the jail and of all persons
13 confined therein.

14 (5) A city or county may enter into an interlocal agreement for
15 the sharing of costs for sanctions imposed by a jurisdiction hosting
16 probation supervision services pursuant to an interlocal agreement
17 under RCW 39.34.180(6).

18 **Sec. 4.** RCW 10.64.120 and 2005 c 400 s 7 and 2005 c 282 s 22 are
19 each reenacted and amended to read as follows:

20 (1) Every judge of a court of limited jurisdiction shall have the
21 authority to levy upon a person a monthly assessment not to exceed
22 one hundred dollars for services provided whenever the person is
23 referred by the court to the misdemeanor probation department for
24 evaluation or supervision services. The assessment may also be made
25 by a judge in superior court when such misdemeanor or gross
26 misdemeanor cases are heard in the superior court. Nothing in this
27 subsection prevents contracting jurisdictions under RCW 39.34.180(6)
28 from agreeing to the division of moneys received for probation
29 supervision services.

30 (2) For the purposes of this section the administrative office of
31 the courts shall define a probation department and adopt rules for
32 the qualifications of probation officers based on occupational and
33 educational requirements developed by an oversight committee. This
34 oversight committee shall include a representative from the district
35 and municipal court judges' association, the misdemeanor corrections
36 association, the administrative office of the courts, and
37 associations of cities and counties. The oversight committee shall
38 consider qualifications that provide the training and education
39 necessary to (a) conduct presentencing and postsentencing background

1 investigations, including sentencing recommendations to the court
2 regarding jail terms, alternatives to incarceration, and conditions
3 of release; and (b) provide ongoing supervision and assessment of
4 offenders' needs and the risk they pose to the community.

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

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

12 (5) Assessments and fees levied upon a probationer under this
13 section must be suspended while the probationer is being supervised
14 by another state under RCW 9.94A.745, the interstate compact for
15 adult offender supervision.

Passed by the House February 24, 2021.
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