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**SUBSTITUTE HOUSE BILL 1294**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

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

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  
to an interlocal agreement.

18       (b) "Misdemeanor 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  
contract may not be terminated prior to the end of the term without  
the office's approval. If the contract is terminated, or upon the  
expiration and nonrenewal of the contract, the governing unit whose  
jail facility was built or remodeled to hold the prisoners of other  
governing units shall pay to the state treasurer the amount set by  
the corrections standards board or office when it authorized  
disbursal of state funds for the remodeling or construction under RCW  
70.48.120. This amount shall be deposited in the local jail  
improvement and construction account and shall fairly represent the  
construction costs incurred in order to house prisoners from other  
governing units. The office may pay the funds to the governing units  
which had previously contracted for jail services under rules which  
the office may adopt. The acceptance of state funds for constructing  
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.

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