

HOUSE BILL REPORT

HB 2747

As Reported By House Committee On:
Corrections

Title: An act relating to juveniles.

Brief Description: Revising standards for punishment of juvenile offenders.

Sponsors: Representatives Conway, Lemmon, Morris, Long, Campbell, Forner, Van Luven, Talcott, Brough, Holm, Roland, Shin, Johanson, Pruitt, Rayburn, Moak, Valle, Jones, L. Johnson, Karahalios, Springer, Ogden and Quall.

Brief History:

Reported by House Committee on:
Corrections, February 3, 1994, DPS.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; G. Cole; L. Johnson; Moak and Padden.

Staff: Kristen Lichtenberg (786-7156).

Background:

Statutory Standard Disposition Ranges

Current law establishes a determinate sentencing system for juveniles. The standard range bases the type and length of a juvenile's disposition (sentence) on several factors:

- the juvenile's offender category: minor/first, middle, or serious offender;
- the type and recency of the juvenile's criminal history; and
- the current offense.

As an alternative to the standard range, courts can declare a manifest injustice and impose a lighter or stiffer disposition. Certain sex offenders are also eligible for the special sex offender disposition alternative (SSODA), under which their confinement is suspended on condition that they receive treatment.

Diversions

The current law permits a prosecutor to divert a juvenile from prosecution. Depending on the nature of the current offense, the prosecutor must divert, must prosecute, or can choose between diversion and prosecution.

Deferred and Suspended Dispositions

Other than under SSODA, the law prohibits courts from imposing deferred or suspended dispositions.

Juvenile Disposition Standards Commission

The Juvenile Disposition Standards Commission (JDSC) reports to the Legislature on juvenile disposition standards, effectiveness, and proportionality.

Summary of Substitute Bill:

Diversions

- Only first-time offenders are eligible for mandatory diversion.
- The prosecutor must file charges if the current offense is a felony and the offender has a history of any felony or more than two misdemeanors or gross misdemeanors.
- Court administrators can contract with community accountability boards to perform diversion services.
- Diversion agreements can include curfews and geographical restrictions.

Deferred Adjudication

Before adjudication, the court may grant a one-year deferral of adjudication. The court imposes community supervision. If the juvenile complies, the court dismisses the case with prejudice. If the juvenile fails to comply, the court enters an order of adjudication and a disposition; the juvenile waives procedural rights. Juveniles are not eligible for deferral if charged with a sex or violent offense.

In addition to imposing community supervision, the court can order an out of home placement if the juvenile is in need of supervision, the placement is in the juvenile's best interests, and if reasonable efforts have been made to prevent out of home placement. Courts make direct out of home placements and must first consider placement with a relative. The receiving agency or person can move at any time for a change of placement; courts also undertake a 90 day administrative placement review.

Dispositions Based on Current Offense

Juveniles adjudicated of misdemeanors or gross misdemeanors will receive a term of community supervision. The court may also impose up to 30 days of confinement if the juvenile has prior criminal history. If the court finds a manifest injustice, the court can commit the juvenile to the department.

Juveniles adjudicated of Class B or C felonies not against persons and not involving harassment will receive a term of community supervision and five to 60 days of confinement. The court may commit the juvenile to the department for more than 60 days if the court finds a manifest injustice or the juvenile has a significant criminal history sufficient to constitute an aggravating factor. The court may suspend all or a portion of the commitment or confinement.

Juveniles adjudicated of Class B or C felonies against persons will receive a disposition that includes community supervision and from five days' confinement to 129 weeks' commitment to the department. To commit for more than 129 weeks, the court must find a manifest injustice. The court may suspend all or a portion of the commitment or confinement.

Juveniles adjudicated of Class A felonies, attempted Class A felonies, sex or violent offenses, or offenses in which the court enters a finding that the juvenile was armed with a deadly weapon, shall receive a determinate term of 52 to 224 weeks' confinement to the department. The court may go outside the standard range upon a manifest injustice finding. When a court commits a sex offender to the department, at the time of the disposition the court shall order a term of post-release supervision, which shall be in addition to parole.

SSODA will remain a disposition option for certain sex offenders. Offenders on SSODA will receive a minimum of two years community supervision.

Dispositions for two or more offenses run concurrently or consecutively.

Rehabilitative Dispositions

When the court imposes a term of commitment to the department, the court enters a finding of rehabilitative goals to be achieved by the juvenile during commitment. After the juvenile has served 60 percent of the commitment, the department shall report to the sentencing court on the juvenile's rehabilitative progress. The court must then set a release date, which shall be at or before the expiration of the commitment term. The department shall establish by

rule standards to determine good behavior and progress toward rehabilitative goals.

The court can declare a manifest injustice if a sentence within the standard range would not promote the juvenile's best rehabilitative interest.

Before disposition, the county shall evaluate the juvenile's rehabilitative needs, and shall provide this report to the court. The court shall consider the report when setting a disposition.

If a juvenile is released due to overcrowding, the department must inform the sentencing court at the time of release, not at the end of the calendar year.

The definition of confinement is expanded to include group homes, foster homes, electronic monitoring, inpatient substance abuse treatment, and electronic monitoring.

Parental Participation

If the court requires treatment as a disposition condition, the court may order the juvenile's parents to participate in the treatment.

If the court orders restitution, it may require parents to pay restitution.

Parents will be parties to diversion agreements, and the diversion authority shall consult with the juvenile's parents before setting terms of community supervision and community service.

Juvenile Disposition Standards Commission

The bill enlarges membership on the JDSC, makes it more independent, and provides a research staff.

It assigns additional responsibilities, including the duty to evaluate dispositions in light of juveniles' rehabilitative needs.

The commission shall implement a tracking program to determine recidivism rates for all juvenile offenders, particularly those who receive disposition alternatives such as suspended confinement or deferred adjudication.

Courts to Establish Standards

Judges shall establish standards to guide the court's discretion at important stages of juvenile proceedings, i.e., deferring adjudication, suspending a sentence, and setting of rehabilitative goals.

County Law and Justice Council Juvenile Justice Advisory Committees

County law and justice councils shall establish juvenile justice advisory committees, which shall include juvenile court administrators and citizens. The advisory committees shall monitor juvenile dispositions, rehabilitation, and proportionality. The committees shall report to the JDSC.

Commitment Caps

The department may not condition disbursal of funds to counties on counties' compliance with commitment caps.

Substitute Bill Compared to Original Bill: The substitute bill:

- Lengthens confinement times for all felons;
- Increases community supervision for SSODA sex offenders;
- Adds parental participation requirements;
- Permits manifest injustice dispositions based on rehabilitative needs;
- Prohibits the department from capping commitments;
- Permits dispositions to run consecutively or concurrently;
- Requires the disposition standards commission to track recidivism; and
- Clarifies that the court makes the out of home placement directly.

Fiscal Note: Requested January 24, 1994.

Effective Date of Substitute Bill: The bill takes effect January 1, 1996.

Testimony For: The system needs not "tinkering", but a complete overhaul. Judges need flexibility to impose appropriate dispositions. Juveniles need an incentive to rehabilitate themselves, and performance-based confinement will provide the incentive. Current delays in implementation of dispositions result in disregard for the system; the bill will speed justice. Deferred adjudications will result in fewer costly trials and will permit quicker dispositions. Out of home placements will help prevent recidivism among early offenders. Community monitoring and appropriate use of judicial discretion will prevent disproportionality.

Testimony Against: A change this major requires longer consideration. Disproportionality will result from increased judicial discretion; dispositions will be based on who the juvenile is, not on the offense committed. Counsel will be required at out of home placements and sentencing

reviews. The state should not return to the pre-1977 status offender laws. The increased judicial discretion prevents "truth in sentencing." Performance-based release dates mean that the public and the victim will not know when the offender will be released. Speeding up justice can result in violations of due process. Deferred prosecution and suspended confinement are ineffective and will burden counties. Much of what the bill proposes can be done under present law.

Witnesses: Nelson Hunt, Lewis County Prosecutor's Office (con); Greg Hubbard, King County Prosecutor's Office (con); Laurie Leppold and Paula Marauan, Children's Alliance (no formal position at present); Greg Yannakis, Public Defender, Seattle (con); Kurt Sharar, Washington State Association of Counties (neutral); Christy Hedman, Washington Defenders Association (con); Buck Harmon, Founder and former director of Division of Juvenile Rehabilitation (pro); Sid Sidorowicz, Acting Director, Department of Social and Health Services, Division of Juvenile Rehabilitation (con); Margaret Casey, Washington Association of Criminal Justice Administrators (pro); Larry Fehr, Washington Council on Crime & Delinquency (con); Art Verharen, Pierce County Superior Court Judge (pro); Bobbe Bridge, Superior Court Judges Association (pro); Doug Blair, Jim Gleason, Mel Jewell and Lois Smith, Juvenile Court Administrators' Association (pro); Pat MacArthur, Evergreen Legal Services (con); and Scott Kasemeier (undecided).