

SENATE BILL REPORT

SB 6511

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 4, 2010

Title: An act relating to gang and hate group activity on school grounds and at school activities.

Brief Description: Regarding gang and hate group activity at schools and school activities.

Sponsors: Senators Hobbs, King, Marr, Shin, Rockefeller and Kline; by request of Superintendent of Public Instruction.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/01/10, 2/04/10 [DPS-WM, DNP].

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 6511 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators McAuliffe, Chair; King, Ranking Minority Member; Brandland, Gordon, Hobbs and Roach.

Minority Report: Do not pass.

Signed by Senator Kauffman, Vice Chair, Early Learning.

Staff: Juliana Roe (786-7438)

Background: In 2007 the Legislature directed the Office of the Superintendent of Public Instruction (OSPI) to convene a task force to examine how gangs are affecting school safety and to recommend methods to prevent and eliminate gangs in schools, gather intelligence on gangs, and share information about gangs. In 2008 the task force made seven recommendations to the Legislature. Two of the recommendations included revising the school definitions of gang and gang activity; and mandating districts to adopt a policy to prevent gang activity in school facilities.

Under current law, a student may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds. Gang is defined as a group which (1) consists of three or more persons; (2) has identifiable leadership; and (3) regularly conspires and acts in concert mainly for criminal purposes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Current law also provides that a district may reject applications from non-resident students whose disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership, or if the student has been expelled or suspended from a public school for more than ten consecutive days. The district must provide applicants written notice of approval or denial in a timely manner. Rejections must include the reasons, and the right to appeal.

Summary of Bill (Recommended Substitute): Each school district board of directors must enact antigang policy and associated procedures, or modify an existing policy, by September 1, 2011. The antigang policy must include prohibitions on criminal street gangs on school property and school vehicles at all school activities.

School district policies, with respect to criminal street gangs and gang activity must include, within its outline of progressive discipline, an initial warning and opportunity to correct violations of the school policy.

The Washington State School Directors' Association and OSPI, in collaboration with task force members that include school directors, school administrators, civil rights organizations, the state ethnic commissions, the tribal leaders' congress, the Achievement Gap Oversight and Accountability Committee, the Office of the Education Ombudsman, parents, students, and law enforcement must develop model school policies and procedures by January 1, 2011.

School districts may reject applications from non-resident students if the student's disciplinary records raise significant concerns for staff or student safety as evidenced by a history of convictions for offenses or crimes or disciplinary actions for violent or disruptive behavior that resulted in suspension or expulsion. Applications cannot be rejected solely because the student has been expelled or suspended for more than ten consecutive days. There must also be evidence that admission of the student would present a significant risk of disruption of the educational environment or significant concern for staff or student safety.

Districts accepting applications from non-resident students for admission to an online program may not deny a non-resident application on any of the previously mentioned bases unless the program regularly requires the presence of the student on school property, and there is a significant risk of disruption of the educational environment, or a significant concern for staff or student safety caused by the student's presence. Written notification of approval or denial must be provided in a timely manner not to exceed five school business days from receipt of the application.

A student may be suspended or expelled, consistent with other laws and rules related to student discipline, if the student is a member or associate of a criminal street gang and knowingly engages in gang activity on school grounds or while engaged in any school-sponsored activity.

A criminal street gang means: (1) an ongoing organization, association, or group of three or more persons, formal or informal; (2) having a common name or identifying sign or symbol; (3) having one of its primary activities be the commission of criminal acts; and (4) whose

members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity.

A criminal street gang member means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

Gang activity means any act that is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons: (1) to gain admission, prestige, or promotion within a gang; (2) to increase or maintain the gang's size, prestige, dominance, or control in any geographical area; (3) to exact revenge or retribution for the gang, or any member of the gang; (4) to obstruct justice, intimidate, or eliminate any witness against the gang or its members; (5) to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or (6) to provide the gang with any advantage in, control, or dominance over any criminal market sector.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Substitute): All references to hate groups are removed. Expulsion or suspension for gang activity knowingly engaged in by a criminal street gang member or associate must be consistent with other discipline laws and rules, and provides that the gang activity must have occurred on school grounds or while engaged in any officially sanctioned school-sponsored activity. The requirement that OSPI convene a work group to advise on the development of rules, guidance, and definitions, and report to the Legislature and the school districts by December 1, 2010, is removed. Representatives from the following stakeholder groups are added to the group charged with developing a model policy: school directors, school administrators, civil rights organizations, the state ethnic commissions, the tribal leaders' congress, the Achievement Gap Oversight and Accountability Committee, the Office of the Education Ombudsman, parents, students, and law enforcement. School district policies with respect to criminal street gangs and gang activity must include, within its outline of progressive discipline, an initial warning and opportunity to correct. The provision that allowed applications from nonresident students to be rejected solely for a history of convictions for offenses or crimes, violent or disruptive behavior, or criminal street gang or hate group membership or activity, is removed. A district may reject applications of nonresident students if the student's disciplinary records raise significant concerns for staff or student safety as evidenced by a history of convictions for offenses or crimes or disciplinary actions for violent or disruptive behavior that resulted in suspension or expulsion. To be considered gang activity, the activity must be committed with the intent to promote, further, or assist in any criminal conduct by the gang.

Appropriation: None.

Fiscal Note: Requested on January 15, 2010.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The rise of gangs in school is a side of education we do not want to hear about. We often set education policy and standards to help kids learn, but we also have to discuss the public safety aspect of education. Gangs and hate groups are a growing epidemic in Washington State in rural and urban settings. Students are intimidated and fearful of gangs. Drugs and violence are creeping into the schools. More students are bringing weapons to school in order to defend themselves. Gangs in schools divert attention, that should be focused on education by teachers and students, on how to keep students safe. This is not a new problem, but a growing problem. Having statewide consistency in gang policies will be beneficial to students. Inconsistency leads to peoples' due process rights being trampled. One concern is that at this point there are no funds to implement prevention and intervention programs.

Allowing students to take online learning classes, even if they are in a gang, is appropriate as no students are throw-away students. Even gang members should continue learning.

CON: This bill will not solve the gang problems. It will impact minorities disproportionately. You should not exclude children from school in an unconstitutionally, overbroad manner. There are also concerns that an individual's constitutional right to free speech may be infringed upon by passing this bill.

If you create a work group, you should think about including public defenders who come into contact with many of these youths.

OTHER: Gang violence will not be solved with more restrictions. Rather, the root of the cause is the environment in which students exist on a day to day basis. There should be mentoring programs or other support systems for those children with parents who are drug abusers or alcoholics because if these children have no one to turn to, they will eventually turn to gang life.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Jessica Ubachs, Ryan Snell, Legislative Youth Advisory Council; Tyson Vogeler, OSPI; Joe Pope, AWSP; Shelby Langdon, Wahluke School District; Deputy Lazaro Sanchez, Grant County Sheriff's Department and Wahluke School District; Heather Haste-Ulery, Associate Superintendent of Wahluke School District; Arturo Arellano, Simon Sampson, Community Safety Network; Tom Brandt, citizen; Kim Howard, PTA.

CON: Travis Stearns, Deputy Director of Washington Defenders Association; Shankar Narayan, ACLU.

OTHER: Josh Markowitz, Youth Ambassador.