

HOUSE BILL REPORT

HB 2535

As Amended by the Senate

Title: An act relating to creating a juvenile gang court.

Brief Description: Creating a juvenile gang court.

Sponsors: Representatives Ladenburg, Johnson, Moscoso, Walsh, Ross, Klippert, Goodman, Nealey, Fitzgibbon, Appleton, Pollet, Green, Billig, Roberts, Kirby, Probst, Jinkins, Kagi, Lytton, Dickerson, Darneille, Santos and Kenney.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/24/12, 1/27/12 [DP].

Floor Activity:

Passed House: 2/9/12, 92-4.

Senate Amended.

Passed Senate: 2/29/12, 48-0.

Brief Summary of Bill

- Authorizes counties to establish and operate juvenile gang courts, where juvenile offenders involved in criminal gangs may receive evidence-based services designed to reduce gang-related offenses while under continuous court supervision.
- Provides minimum requirements for admission to a juvenile gang court, allowing individual counties to set more stringent standards.
- Requires the counties operating juvenile gang courts to track data regarding the participants, and requires the Administrative Office of the Courts to study the data and report to the Legislature regarding recidivism outcomes.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass. Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Dickerson, Goodman, Johnson and Orwall.

Minority Report: Do not pass. Signed by 1 member: Representative Overstreet.

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.

Staff: Linda Merelle (786-7092).

Background:

Special Courts.

Many counties in Washington operate "problem solving" courts for specific offenders. At least three of these courts are authorized in statute: mental health courts, drug courts, and courts for offenders charged with driving under the influence. These dedicated courts have special calendars or dockets designed to reduce recidivism and provide intense, judicially supervised treatment. If an offender completes the requirements of a particular court, the underlying criminal charge is usually dismissed. In Washington, most dedicated courts handle only adult offender cases. Some counties, however, operate a juvenile drug court.

Gang Courts.

Some state and federal courts have initiated gang courts for adult offenders. These courts are often developed based upon a drug court model. Instead of providing substance abuse treatment, the courts use a team approach whose goal is to assist offenders who want to leave a gang lifestyle.

Yakima County is the only county in Washington that has developed a gang court specifically for juvenile offenders. In order to participate, the juvenile charged with an offense must be involved in gang-related activities. Under Yakima's model, the youth is supervised by a gang court "team" that may include a prosecutor, defense counsel, probation officer, law enforcement, treatment providers, educators, and other interested members in the community. Upon admission to gang court, the juvenile either pleads guilty or is found guilty by the court based upon the facts in the police report. Sentencing is deferred for one year. Even if the juvenile offender completes all of the requirements of the gang court, the case is not dismissed. The court, however, may have a basis to impose a sentence more lenient than the standard sentence range.

Summary of Bill:

Counties are authorized to establish and operate "juvenile gang" courts, which are courts that have special calendars or dockets designed to achieve a reduction in gang-related offenses among juvenile offenders. The gang courts must provide juveniles with integrated evidence-based services that are proven to reduce recidivism and gang involvement.

Any county that establishes a juvenile gang court must establish minimum requirements for participation. A particular county, however, may adopt more stringent admission requirements. Under this act, a "gang" is defined as "a group which consists of three or more persons; has identifiable leadership; and on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes."

Admission.

The minimum requirements for admission to gang court are:

- the juvenile offender participates in gang activity, is repeatedly in the company of known gang members, or openly admits that he or she has been admitted to a gang;
- the juvenile offender has not previously been convicted of a serious violent offense or a sex offense; and
- the juvenile offender is not currently charged with:
 - a class A felony;
 - a sex offense;
 - an offense during which the offender intentionally discharged or threatened to discharge a firearm; or
 - the juvenile is not subject to the original jurisdiction of the adult superior court.

Requirements for Completion.

Once a juvenile offender is admitted into gang court, he or she must stipulate to the admissibility of the facts in the police report and agree that the facts are sufficient to find him or her guilty of the charged offense. The juvenile must waive the right to a speedy trial and the right to confront witnesses. Upon review of the police report, the court, if it determines that there is sufficient evidence to do so, enters a finding of guilt. The juvenile disposition, or sentencing, is deferred.

Once the juvenile is admitted, an individualized plan is developed for the juvenile, which may include mental health, substance abuse treatment, or other recommended services. The plan must contain goals for the juvenile and his or her support team. The support team may be comprised of treatment providers, a probation officer, teachers, defense counsel, the prosecuting attorney, law enforcement, guardians or family members, and other participants deemed necessary by the court. If the juvenile completes the requirements of the gang court, the charges are dismissed.

Data Collection and Reports.

Counties that create juvenile gang courts must collect data (1) regarding the criteria upon which a juvenile was admitted to gang court, (2) whether the juvenile successfully completed gang court, and (3) whether a juvenile court participant subsequently charged with any offenses.

By December 1, 2013, the Administrative Office of the Courts must study the data collected by the counties and make a preliminary report to the Legislature regarding the recidivism outcomes for the gang court participants. A final report is due by December 1, 2015.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment (1) adds Assault of a Child in the Second Degree to the list of offenses that make a juvenile ineligible for admission to gang court; (2) adds a provision that requires the court, the prosecutor, and the juvenile agree to the juvenile's admission to gang court; and (3) adds a provision requiring the juvenile to remain in gang court for at least 12 months.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The criminal cycle for young people must be broken before it breaks them. The gang court will pull people together so that they can work with our young people. Washington has done a great job in our juvenile court system. Most kids involved with gangs have high risk factors in their lives. They may come from dysfunctional families or they may be victims of abuse or involved with drugs themselves. When juveniles join gangs, they are mimicking adult behavior. With this gang court and the use of evidence-based practices, they will get assistance and get out of gangs. These kids should be caught early. With the gang court in place, Yakima is doing a stellar job with young people. It is offering them a way to get out of their gang affiliation. The team described in the bill actually reviews each case. Someone from the team touches the child every single day. Before starting the gang court, what Yakima County did regarding gangs for the past four years was not effective. Something was needed to put a stop to that cycle. The gang court model was developed based upon some of the principles from drug court. Evidence-based practices were used and worked with the whole family. Based upon the CeaseFire Chicago program, ex-gang members became mentors. Currently, eight children are in gang court in Yakima. Their protective factors have dramatically increased, and their risk factors have decreased. All of the gang court participants could have been committed to the Juvenile Rehabilitation Administration. The gang court in Yakima County is geared toward families. The wraparound model gathers every service provider and anyone involved in that case. This allows communication to be bridged. Often, when a juvenile is on probation, even though he or she has services, there is no follow up.

(In support with amendments) The language regarding admission to gang court should ensure that admission is controlled by the deputy prosecuting attorney in conjunction with the presiding judge. It is not clear how the admission decision is made in the current draft of the bill. There are concerns of how this program would look in other counties. It might be appropriate for a person with a history of felonies to be admitted in one county, but not in another. The requirement for data collection and analysis could impose a chilling effect on a county that wishes to establish a gang court because of the funding and resources required. There could be a provision to change the data collection requirements depending upon resources available.

(Opposed) None.

Persons Testifying: (In support) Representative Ladenburg, prime sponsor; Brianna Taylor and Harold Delia, Yakima County; Owens Barrios, Yakima County; and Yoshe Revelle.

(In support with amendments) Russ Hauge and Jon Tunheim, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.