

HOUSE BILL REPORT

HB 1255

As Reported By House Committee On:

Law & Justice

Appropriations

Title: An act relating to juveniles.

Brief Description: Revising provisions relating to juveniles.

Sponsors: Representatives Padden, Appelwick, Ballasiotes, Carrell, Campbell, Ebersole, Cooke, Honeyford, Thompson, Elliot, Johnson, Goldsmith, Clements, Hickel, Dyer, Robertson, Mitchell, Schoesler, Wolfe, Benton, Romero, Cody, Sheahan, Ogden, Scott, Sherstad, Regala, Costa, Patterson, Kessler, Casada, Basich and Conway.

Brief History:

Committee Activity:

Law & Justice: 2/3/95, 2/28/95 [DPS];

Appropriations: 3/4/95, 3/22/95 [DP2S(w/o sub L&J)].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Lambert; McMahan; Morris; Robertson; Sheahan; Smith and Thibaudeau.

Minority Report: Do not pass. Signed by 2 members: Representatives Cody and Veloria.

Staff: Pat Shelledy (786-7149).

Background:

A. Parental Rights and Obligations:

Parents of Juvenile Offenders:

The juvenile court has jurisdiction over a juvenile under age 18 who allegedly commits an offense. Juvenile court jurisdiction provisions do not expressly provide

that the juvenile court has jurisdiction over the juvenile offender's parents. Parents are entitled to receive notice when their child is taken into custody and a detention hearing is scheduled. If the parents appear at the detention hearing, the judge must consult with the parents about detaining or releasing the juvenile. If the prosecutor files a charge against the juvenile, the parents should be served with a summons directing the parents to appear at the juvenile's next court hearing to be "proper and necessary parties to the proceeding" and to appear personally before the court.

Parents of Mentally Ill or Chemically Dependent Juvenile Nonoffenders:

Chemical Dependency Treatment: A juvenile 14 years of age or older may consent to chemical dependency treatment. Parental consent is not required for outpatient treatment but is required for inpatient treatment. The parents are not liable for payment for their child's treatment if they did not consent to the treatment. A person in need of treatment may voluntarily apply for treatment. If the patient is a minor, the minor's parent may apply for the child. The statutes are not entirely clear whether the parent can force the minor to enter treatment over the minor's objection. If the minor objects to receiving treatment and the parent cannot afford to place the child in treatment, the parent can ask the county chemical dependency specialist to commit the child for involuntary treatment. If the chemical dependency specialist declines to commit the child involuntarily, the parents currently have no recourse.

Mental Health Treatment: A juvenile 13 years of age or older may consent to outpatient mental health treatment without the parent's consent. Parental consent is necessary for a child under age 13. A juvenile 13 years of age or older may consent to inpatient treatment if the treatment provider believes the minor is in need of inpatient treatment. The parent is entitled to notice and has a right to contest the inpatient placement. A juvenile 13 years of age or older may refuse inpatient treatment even if the parent wants to place the child in inpatient treatment. A mental health specialist may examine the child to determine whether the child should be committed for treatment involuntarily. If the mental health specialist does not recommend involuntary treatment, the parents currently have no recourse.

The parents of a minor who receives mental health treatment are liable for the costs of the treatment based on their ability to pay.

B. Truancy Provisions:

When a juvenile is truant, the school district and the school district's attendance officer are required to take steps to eliminate or reduce the juvenile's truancy.

C. Juvenile Offender Disposition Provisions:

General Disposition Range Provisions:

When a juvenile is adjudicated of an offense, the court imposes a disposition under a disposition grid that is based on a formula that considers the juvenile's age, offense, prior criminal history, and the recency of that history. The juvenile is characterized as a "minor/first offender," a "middle offender," or a "serious offender." An offender is not a "serious offender" unless the offender is at least 15 years old and is charged with a serious offense.

The presumptive penalties for offenders, particularly those offenders who are not committed to a state institution, generally include narrow ranges of permissible detention and community supervision time. The court may not deviate from the presumptive range unless the court imposes a statutory alternative, termed "Option B," or finds that the standard range disposition would effect a "manifest injustice" and the court enters an alternative disposition. Commitment ranges to state institutions start at 8-12 weeks, then increase as follows: 13-16 weeks, 21-20 weeks, 30-40 weeks on up.

Under current law, the court lacks express authority to commit a juvenile offender into inpatient substance abuse treatment.

Certain specific disposition alternatives to the presumptive disposition exist:

Juvenile Offender Basic Training Camp Eligibility:

Juvenile offenders committed to a state institution with a range of at least 52 weeks but less than 78 weeks may enter a boot camp program. Juveniles adjudicated of sex and violent offenses are ineligible.

Special Sexual Offender Disposition Option:

Certain sex offender's standard range disposition may be suspended and the court may place the juvenile under supervision up to two years and order treatment. If the juvenile violates the conditions of the disposition, the court may revoke the suspended disposition and place the juvenile in confinement. A concern has been expressed that the standard range penalties are not sufficiently severe to motivate the juvenile to comply with the disposition.

Reasonable Rehabilitation Goals: Release Authority:

If a juvenile is committed to a state institution, the juvenile rehabilitation administration may place the juvenile on parole after the juvenile has served the juvenile's minimum term. The court does not set the release date. The court also does not impose reasonable rehabilitation goals the offender must achieve during confinement.

Age of Capacity to Commit a Crime:

A child is legally incapable of committing a crime if the child is under age 8. A child at least 8 but less than 12 is presumed to be incapable of committing a crime. That presumption can be rebutted following a hearing. A child age 12 and older is legally capable of committing crimes.

Juvenile Offender Disposition Standards Commission:

The juvenile disposition standards commission is comprised of various criminal justice professionals and is chaired by the secretary of the Department of Social and Health Services. The department provides data, staff, and technical assistance to the commission. The commission makes recommendations to the Legislature for modification of the disposition standards within certain parameters. The Sentencing Guidelines Commission is a similar commission that reviews adult offender sentencing guidelines. The Sentencing Guidelines Commission operates independently from any agency.

Transfer of Disposition Hearings to Juvenile's County of Residence:

A juvenile who commits a crime in one county must be tried and adjudicated in the county where the crime occurred. However, the court may transfer the case to the county of the juvenile's residence for disposition and enforcement.

Bonds:

A court may require a juvenile to post a bond to obtain release from custody pending trial. In some states, courts use bonds as a disposition tool to increase compliance with terms of a disposition and as alternatives to confinement.

Summary of Substitute Bill:

A. Parental Rights and Obligations:

Parents of Juvenile Offenders:

Parents, guardians, and custodians of juvenile offenders will be subject to juvenile court jurisdiction. Those responsible adults will be required to appear at detention, adjudicatory, and dispositional hearings. If a responsible adult fails to appear without reasonable cause, the person may be subject to contempt of court.

An arrested juvenile taken into custody may not be released except to a responsible adult.

Parents of Mentally Ill or Chemically Dependent Juvenile Nonoffenders:

A parent, guardian, or custodian of a juvenile may seek review of a decision of a chemical dependency specialist or mental health professional not to file a petition for initial or continuing inpatient commitment of the juvenile. The petition for review may be filed in superior or district court.

The current power of a minor age 13 or older to refuse inpatient mental health treatment without being involuntarily committed by the court is removed. Parents of a minor may commit a minor child to inpatient treatment over the minor's objection, if the professional person in charge of the facility has reason to believe that the minor needs inpatient care.

If a minor requests and receives outpatient mental health treatment, the treatment provider must notify the minor's parents.

If a parent does not consent to the minor's mental health or chemical dependency treatment, neither the parent nor the parent's insurance carrier is liable for the costs of the treatment.

School district personnel may not rely upon general provisions contained in the chapters governing treatment of minors as authority to refer minors to treatment without notifying the minor's parent of the referral. School districts must rely on other statutes or laws if they exist that give school districts authority to make referrals without parental notice.

B. Truancy Provisions:

Community truancy boards, created under the local school district's direction, will monitor individual truants and set conditions to improve the truant's attendance record. If efforts fail, the board may petition the court to assume jurisdiction over the truant.

C. Juvenile Offender Provisions:

Disposition Range Changes:

Minor/First Offenders:

1. Standard Range:

One standard range is created: 0-12 months' community supervision; 0-150 hours of community services; 0-\$100 fine.

2. Option B:

0-90 days' commitment to inpatient substance abuse treatment under jurisdiction of and paid by the county; 0-12 months community supervision.

Middle Offenders:

1. 1-109 points:

Standard Range:

0-12 months' community supervision; 0-150 hours' community service; 0-30 days' juvenile detention.

Option D:

0-90 days of inpatient substance abuse treatment; 0-12 months' supervision.

2. 110+ Points:

Standard Range:

Current commitment ranges of 8-12, 13-16, and 21-28 weeks of confinement are deleted. The first commitment range is 30-40 weeks of confinement.

Option B:

Middle offenders with 110 points or more are ineligible for inpatient substance abuse treatment. However, they remain eligible for current Option B (0-12 months' community supervision, 0-150 hours' community service, 0-\$100 fine; 0-30 days' confinement).

Serious Offenders:

Definition of Serious Offenders:

The age limitation on characterization as a serious offender is removed. Characterization as a serious offender will be based entirely on the offense committed.

The point system is collapsed so the first range is 1-249 points resulting in a 30-40 week commitment. Current commitment ranges of 8-12, 13-16, and 21-28 weeks are deleted.

Juvenile Offender Basic Training Camp Eligibility:

Basic training camp eligibility requirements are restricted. Offenders with a standard range of at least 30 but not more than 40 weeks will be eligible. Offenders previously placed in boot camp are ineligible.

Special Sex Offender Disposition Option:

If a court wants to exercise the special sex offender disposition alternative, the court may impose a manifest injustice, suspend the disposition and, if so, must place the offender on community supervision for up to three years.

Reasonable Rehabilitation Goals: Transfer of Release Authority to Juvenile Court Judges:

If a juvenile is committed to the state, the court must enter findings of reasonable rehabilitation goals that the juvenile must achieve during commitment. The Department of Social and Health Services must provide rehabilitative services for the juvenile to meet those goals.

On or before the juvenile serves 60 percent of the minimum term, the department must send a report to the court containing an evaluation of the juvenile's progress toward rehabilitation. Upon receipt of the report, the court must set a release date. The court may not set the release date before the expiration of the juvenile's minimum term. If the juvenile's behavior changes, the department may submit a new report, and the court may set a new release date.

Age of Capacity to Commit a Crime:

The age at which a child is presumed to be capable of committing a crime is lowered from age 12 to age 10.

Juvenile Disposition Guidelines Commission:

The composition of the Juvenile Disposition Guidelines Commission is changed and it is termed a "committee." The Sentencing Guidelines Commission will provide staff support to the committee. The committee must review the structure of the juvenile disposition code and make recommendations to the Legislature for revision.

Restrictions on Transfer of Disposition Hearings to Juvenile's County of Residence:

Juvenile disposition hearings may only be transferred to the county of the juvenile's residence if the juvenile's standard range disposition would result in commitment to the department.

Bonds:

The court may use "probations bonds" as a new disposition alternative if the offender is placed on community supervision. The juvenile's parents may sign for the bond or post other collateral approved by the court. The parents may notify the court, prosecuting attorney, and probation counselor if the juvenile fails to comply with the terms of the bond. The court may keep the bond in effect, modify the bond with the agreement of the parent and surety, or revoke the bond. If revoked, the court does not have to impose a partial or full penalty on the surety or parent.

Miscellaneous:

Technical corrections are made to the juvenile code that were created last year in E2SHB 2319. Those involve the deferred adjudication provisions and provisions concerning suspension of dispositions of middle offenders with less than 110 points.

Substitute Bill Compared to Original Bill: The bill is restructured and technical corrections are made. The runaway provisions are deleted. The court may employ "probation bonds" as a new disposition tool. Juvenile court jurisdiction over parents is narrowed. Provisions governing sex offenders are changed to limit the period of supervision to up to three years rather than an unlimited number of years. A clarification is made that counties will bear the cost of funding inpatient substance abuse treatment. The juvenile rehabilitation administration is not required to develop rules concerning good performance and good behavior. New provisions are added concerning mental health and chemical dependency treatment. First, parents are entitled to notice if their minor child seeks and obtains outpatient mental health treatment. Second, neither the parent nor the parent's insurance company is liable for the cost of mental health or chemical dependency treatment if the parent did not consent to the treatment. Third, school district personnel may not rely on the general provisions contained in the chapters governing mental health treatment and chemical dependency treatment as authority to refer minors to treatment without notifying the minor's parents.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Runaways are in danger and parents are not given the tools to prevent them from running. Parents are being forced to illegally remove their children from the state and place them in out-of-state treatment facilities because Washington's law prevents parents from forcing a teen into treatment. Communities

need to be more involved in monitoring truants. The highest indicator of future criminal activity is truancy. The judges need increased discretion when sentencing juvenile offenders.

Testimony Against: Children derive much more benefit from treatment if it is voluntary rather than forced. The age at which a child is presumed to be capable of committing a crime should not be lowered to 10. The age restrictions on classification of a juvenile offender as a "serious offender" should not be removed. An increase in ranges may result in racial disproportionality. Raising the initial commitment ranges for juveniles committed to state institutions to 30-40 weeks will have a substantial bed impact.

Testified: Fred Wager, Runaway Alliance (pro); Holly, former runaway (pro); Christie Vanzello, citizen (pro); Tony Lee, Washington State Catholic Conference (pro with concerns); Gina Rogerson, Catholic Community Services, Denny Place Youth Shelter (pro); Norm Maleng, King County Prosecuting Attorney (pro); John Ladenburg, Pierce County Prosecuting Attorney (pro); Lois Smith, Juvenile County Administrator (pro); Sid Sidorowicz, Department of Social and Health Services, Division of Juvenile Rehabilitation (pro with concerns); Judi May, Runaway Alliance (pro); and Linda Rowell, Runaway Alliance (pro).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Law & Justice. Signed by 25 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Carlson; Chappell; Cooke; Crouse; G. Fisher; Foreman; Grant; Hargrove; Hickel; Jacobsen; Lambert; Lisk; McMorris; Poulsen; Reams; Sehlin; Sheahan; Talcott and Wolfe.

Minority Report: Do not pass. Signed by 6 members: Representatives Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Dellwo; Rust and Thibaudeau.

Staff: John Woolley (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Law & Justice: The increase in state commitment ranges to 30-40 weeks is phased in over a 3 year period. Boot camp eligibility is expanded to ranges of 0-78 weeks rather than 30-40 weeks. Judges will set release dates for offenders committed to state institutions but judges will not establish rehabilitation goals. Consequently, the department will not have to provide

additional treatment or services based on court orders. Some provisions from SHB 1563 are added as follows: a limited evidentiary privilege is created to protect statements offenders make to their attorneys in the presence of parents; the cap on the number of hours of counseling or education that may be ordered in diversion is removed; the department may issue arrest warrants for juveniles who abscond from parole; recommended non-binding prosecutorial filing standards are adopted; and a modified version of the proposal in 1563 concerning modification of the membership, staffing, and responsibilities of the Juvenile Disposition Commission is adopted. Provisions stricken and transferred to SHB 1417 include creation of community accountability boards to monitor truants and provisions increasing parental power to obtain and control treatment for their children who suffer from chemical or alcohol addictions or mental health problems.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 23, 1995.

Effective Date of Second Substitute Bill: The bill contains several effective dates. Please refer to the bill.

Testimony For: The provisions of the bill are good except for the following concerns: the department does not have the bed capacity to accommodate the increase in the number of offenders committed to the department. The age restriction on classification as a serious offender should not be removed because it will impact children that are too young to fully appreciate their actions, especially if the age of capacity to commit a crime is lowered to age 10. The governor's bill contained several provisions that should be included in the final proposal.

Testimony Against: None.

Testified: Margaret Casey, Washington State Catholic Conference (pro with concerns); and Sid Sidorowicz, Department of Social and Health Services (pro with concerns).