

HOUSE BILL REPORT

SHB 1853

As Passed Legislature

Title: An act relating to juveniles.

Brief Description: Requiring juvenile offenders to post a probation bond in specified cases.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Smith, Padden, Campbell, Koster, Johnson, Blanton, Silver, Benton and Thompson).

Brief History:

Committee Activity:

Law & Justice: 2/17/95, 2/28/95 [DPS].

Floor Activity:

Passed House: 3/8/95, 98-0.

Passed Legislature.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Pat Shelledy (786-7149).

Background:

Posting of Bonds and Disposition Alternatives for Juvenile Offenders:

In certain circumstances, a judge may require an offender, whether an adult or juvenile, to post a bond. In most cases, a bond is posted to ensure the offender's appearance at the next court date pending trial, sentencing, or appeal, and to ensure the offender's compliance with conditions of release. In some jurisdictions, such as California, courts use bonds as an early release and supervision mechanism as a condition of a sentence.

When a juvenile offender is arrested for an offense, the court may require the juvenile to post a bond pending release. No other provision of the juvenile offender code explicitly provides when a court may require a juvenile to post a bond.

When a juvenile is adjudicated of an offense, the court imposes a disposition under a disposition grid. Many of those dispositions involve placing the juvenile on community supervision.

Miscellaneous Technical Revisions:

Last year, the Legislature passed E2SHB 2319 which was a comprehensive bill governing juveniles. A few technical errors were made. In one case, the Legislature intended to create a suspended disposition option for middle offenders with 110 points or more placed under an option B disposition. In drafting, the suspended disposition option was also applied to middle offenders with less than 110 points. The Legislature also created another disposition alternative, termed the deferred adjudication alternative. An error was made in the procedural provisions by providing that the time period for deferred adjudication runs from the date of entry of the plea or finding of guilt rather than from the date the court grants the motion for deferred adjudication.

Summary of Bill:

Probation Bond Provisions:

A court may order a juvenile to post a bond or other collateral in lieu of a bond to enhance public safety, increase the likelihood that the juvenile will appear as required to respond to charges, and increase compliance with community supervision. This bond is called a "probation bond." The parents or guardians of the juvenile may sign for the bond. A parent or guardian, in addition to the surety, has a right to notify the probation officer, prosecuting attorney, and court if the juvenile violates any of the terms and conditions of the bond.

The court may require posting of a probation bond in the following circumstances:

1. As a condition of release following arrest;
2. As a condition of release from detention following filing of charges;
3. As a condition of community supervision under various disposition options, including dispositions that include community supervision.

When a juvenile offender willfully violates the terms of the probation bond or community supervision, the court may either keep the bond in effect or modify or

revoke the probation bond. The surety and the parent must agree to any modification. The court has discretion not to impose a penalty on the parents or surety, or to impose a penalty less than the full amount of the bond. Otherwise, the same rules that apply to revocation and forfeiture of bonds in adult criminal cases apply to revocation and forfeiture of probation bonds.

A surety must be qualified under state insurance laws or by the Department of Licensing, licensed to write corporate, property, or probation bonds within the state, and approved by the superior court of the county having jurisdiction of the case.

Ten dollars of the bail amount is a nonrefundable fee payable to the county.

Miscellaneous Technical Revisions:

Technical problems that were created in last year's bill E2SHB 2319 are corrected.

The dispositions for middle offenders with less than 110 points may not be suspended; the language is clarified so that the suspension provision only applies to middle offenders with 110 points or more who are placed on community supervision under option B rather than sent to an institution.

The procedure for implementing a deferred adjudication is corrected to provide that the one year deferred adjudication time period runs from the date the motion for deferred adjudication is granted.

Appropriate cross-references are made.

Appropriation: None.

Fiscal Note: Requested February 16, 1995.

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

Testimony For: Parents of juvenile offenders must be drawn into the circle of responsibility over the offenders to increase parental participation and monitoring of offenders, and offenders compliance with the terms of their release and disposition.

Parents should be allowed to post a variety of bonds, cash, or other collateral, not just be restricted to posting surety bonds. The court should not be able to modify the terms of the bond, which is essentially a contract between private parties, without notice to the surety to determine whether the surety is willing to write the bond if the terms are changed.

Testimony Against: None.

Testified: Gordon Walgren, Washington State Bail Agents' Association (pro with amendments); and Gary Barrett, Executive Director, Strike Back (pro).