

SENATE BILL REPORT

SB 5439

As Reported By Senate Committee On:
Human Services & Corrections, February 23, 1995
Ways & Means, March 6, 1995

Title: An act relating to revising procedures for nonoffender at-risk youth and their families.

Brief Description: Revising procedures for nonoffender at-risk youth and their families.

Sponsors: Senators Hargrove, Long, Franklin, Smith, Schow, Owen, Moyer, Oke, Strannigan, Gaspard, Snyder, Heavey, Haugen, Rasmussen, Quigley, Wojahn, Loveland, Bauer, Winsley, Deccio, Spanel, Hale, Hochstatter and Palmer.

Brief History:

Committee Activity: Human Services & Corrections: 2/2/95, 2/23/95 [DPS-WM, DNP].
Ways & Means: 3/2/95, 3/6/95 [DP2S].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5439 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Franklin, Vice Chair; Long, Moyer, Palmer, Prentice, Schow, Smith and Strannigan.

Minority Report: Do not pass.

Signed by Senators Fairley and Kohl.

Staff: Richard Rodger (786-7461); Dennis Martin (786-7403)

Background: A Special Legislative Juvenile Justice Task Force was created by the Legislature in 1994. The task force was directed to review the juvenile justice laws and recommend changes to those laws to the 1995 Legislature. The Non-Offender Subgroup of the Task Force made recommendations covering four main subject areas including runaway youth, alternative residential placements, involuntary commitment of minors, and youth who are truant or have dropped out of school. Those recommendations were the basis of this legislation.

Summary of Substitute Bill: Police officers are required to take a runaway child back to his or her parent's home or their place of employment as the first alternative. If the parent does not wish the child to remain in the home, the officer may place the child with a relative at the parent's request. The officer must place the child in a crisis residential center (CRC) if the parent does not wish the child to remain in the home nor be placed with a relative, or if the child has made allegations of physical or sexual abuse.

When a runaway child is placed in a CRC, the facility must hold the child at the facility for a minimum of three days unless the parent picks up the child. CRCs are required to be

secured, either at the building or perimeter. New staffing ratios are set for the CRCs. The CRCs may be co-located with other secure facilities, including jails or juvenile detention centers as long as no in-person contact is permitted among the residents of the two facilities.

The department may create multidisciplinary teams (MT) to assist families in assessment, evaluation, and referral to services. The MT is mandatory when a CRC administrator reasonably believes a child is a child in need of services. The MT is disbanded upon the request of the parent, except in limited circumstances. When a youth files for an out-of-home placement (Child in need of services petition - CHINS), the parents are immediately notified of the filing and an initial hearing on the petition is held within three court days.

At the initial CHINS hearing, the parents are advised of their rights to file: An At-Risk Youth (ARY) petition; an application with a facility for the involuntary alcohol, substance abuse, or mental health treatment of the child; or a petition for a guardianship. At the initial hearing the court may enter a temporary out-of-home placement for a period of 14 days, grant an At-Risk Youth petition, or may require the department to review the case for a dependency filing.

At the 14-day hearing the court may: (1) reunite the family and dismiss the petition; (2) approve an ARY petition filed by the parents; (3) approve an out-of-home placement requested by the parents; or (4) order DSHS to file a dependency action.

If the court does not take any of the action listed above, it may consider a request of the child or department for an out-of-home placement for up to 90 days. The child or department must show, by clear, cogent, and convincing evidence, that: (1)(a) The order is in the best interest of the family; (b) the parents have not requested an out-of-home placement; (c) the parents have not exercised any other right listed above; (d) the child has made reasonable efforts to resolve the conflict; (e) the conflict cannot be resolved by delivery of services in the home; (f) reasonable efforts have been made to prevent the out-of-home placement; and (g) a suitable placement resource is available; (2) the parents are unavailable; or (3) the parent's actions cause an imminent threat to the child's health or safety.

The parents or the department may request the dismissal of an out-of-home placement order under specified conditions. The court must terminate the order upon the request of the parent. The child is subject to contempt proceedings for one year.

The court must conduct the initial hearing on an ARY petition within three judicial days. Upon the request and consent of the parents, the court may order an out-of-home placement for the child. The optional placement is dismissed at the parent's request. If both a CHINS and ARY petition are filed, they are consolidated as an ARY petition.

No court may refuse properly completed and filed CHINS and ARY petitions. Attorney fees and costs may be awarded on appeal from an improperly refused petition. The sum of \$150,000 is appropriated to reimburse counties towards their costs of handling ARY petitions. Criminal justice monies may be used for educational materials explaining parental alternatives for dealing with runaway or at-risk youth.

Persons providing shelter to runaway youth are required to notify the youth's parents, law enforcement, or DSHS. The notice is mandated within six hours from the time the person determines the youth is absent without the parent's consent.

The age at which a child may be admitted for involuntary treatment, upon application of the parent, is raised from age 13 (or age 14 for drug or alcohol treatment) to age 18. Consent of the child is not required. The department conducts random reviews of the propriety of youth placed in treatment by the parents.

The age at which a minor may voluntarily admit himself or herself for treatment of an alcohol or chemical dependency treatment is lowered from age 14 to age 13.

School districts are required to report dropout and truancy rate data by July 31 each year. School districts that fail to report dropout rate data are presumed to have a dropout or truancy rate 10 percent greater than the state average dropout or truancy rate.

If a school district's combined truancy and dropout rate exceeds the combined state average truancy and dropout rate, the Superintendent of Public Instruction notifies the school district to take corrective action to reduce its rate. The district must demonstrate satisfactory progress in reducing the dropout and truancy rates. Satisfactory progress includes the creation and utilization of truancy boards, the effective use of truancy petitions, and the utilization of programs to promote parent and community involvement in reducing dropouts and truancy.

The superintendent must withhold 1 to 5 percent of a district's nonbasic education funds and operating expense funds when a district is above-average for truancy and dropouts, and does not reduce its combined truancy and dropout rate within one year. If after three years the district does not reduce its combined rate, the amount withheld is be 5 percent of the funds. Funds withheld are distributed to the community public health and safety networks located in the school district.

A school district is not required to take corrective action if it demonstrates that its truancy and dropout rate do not exceed the combined state average truancy and dropout rate.

The limitations on fines for school officials convicted of a misdemeanor for failing to report truanicies or making a false truancy report are removed. It is clarified that school officials are personally liable for the costs to the school district for failing to report truanicies or for making a false report.

School districts are required to adopt a policy specifying any restrictions they have imposed regarding students leaving the school grounds during school hours.

Substitute Bill Compared to Original Bill: Multidisciplinary teams are authorized to be created. The "alternative residential placement" process is replaced by the "child in need of services" process. Parents are required to contribute to the cost of their children when placed in a crisis residential center. DSHS is required to conduct random reviews of the propriety of youth placed in treatment by their parents. Behavioral conduct is added to the definition of "mental disorder" for treatment purposes. A null and void clause is added for the entire bill.

Appropriation: \$150,000.

Fiscal Note: Available.

Effective Date: Multiple effective dates are provided.

Testimony For: This bill will assist parents in locating, and providing services to, those children who run away from home. Secure CRC's are the only way to ensure that children, who are picked up by the police, will be held long enough to notify the parents, conduct assessments, and be referred to services. The multidisciplinary teams will provide an excellent method to children, and where appropriate, families to receive assessments, evaluations, referrals to services, and assistance in reunification. Parents need the ability to have their children ordered to mental health and chemical dependency treatment.

Testimony Against: Most of the children who runaway are running from abusive situations. This bill is punitive against children and gives too much control to parents who may be abusive to their children. The truancy provisions in the bill will penalize the school districts that have the greatest problems.

Testified: Judge Bobbi Bridge, Superior Court Judges Association; Christine Gregoire, Attorney General; Jennifer Strus, DSHS; Vicki Wallen, Governor's Office; Kristi Von Oslow, Dennis Hedman, Runaway Alliance (pro); Steve Schuez, South King County Shelter; John Ladenberg, Pierce County Prosecuting Attorney (pro); Norm Maleng, King County Prosecuting Attorney (pro); Linda Meyer, Teen Hope; John Jones, Forks Superintendent (con); Jose Pena, President, United Way of Spokane County (con); Walter Ball, Association of WA School Principals (pro/concerns); Sarri Kreismann, Cocoon House (con).

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5439 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chair; Bauer, Cantu, Drew, Finkbeiner, Gaspard, Hargrove, Hochstatter, Johnson, Long, McDonald, Moyer, Roach, Sheldon, Snyder, Spanel, Strannigan, Sutherland, West, Winsley and Wojahn.

Staff: Brenda Hood (786-7431)

Second Substitute Bill Compared to Substitute Bill: The second substitute bill maintains semi-secure crisis residential centers and establishes a process for secure CRCs, subject to appropriations. The bill adds language requiring the law enforcement officer to place the child in a semi-secure CRC if a secure CRC is full, not available, or within a reasonable distance. The mandated number of regional and group crisis residential centers is deleted.

The second substitute allows semi-secure CRCs to serve as temporary out-of-home placement facilities, but only when other out-of-home placements are not available, and only if no child will be denied access for a five-day placement. A temporary out-of-home placement in a semi-secure crisis residential center cannot displace other youths who need the facility as a crisis residential center.

The second substitute strikes the word "behavioral" from the definition of "mental disorder" that was contained in the substitute bill. The department must evaluate secure and semi-secure CRCs and report to the Legislature. The department must specify its plan for establishing secure CRCs as funds are appropriated. The \$150,000 appropriation to the counties, which would reimburse them for processing at-risk youth petitions, is deleted.

Fiscal Note: Requested for second substitute on March 10, 1995.

Testimony For: (Substitute bill) None.

Testimony Against: (Substitute bill) This bill is needlessly expensive, especially the capital expenditures for new construction of secure facilities. Lawsuits based on a lack of due process for children placed in secure facilities will result in significant appellate costs to the state. Additional fiscal considerations are education and treatment costs. "Secure" should be redefined to include staff secure. Children should not be deprived of their liberty if they voluntarily enter the facility. Some children are thrown out of their home and have nowhere to go. Children should not be committed to treatment facilities against their consent.

Testified: (Substitute bill) Nancy Krier, Attorney General's office (concerns); Jennifer Strus, DSHS (concerns); Peter Berliner, Children's Alliance (con); Seth Dawson, Luther Child Center, Deaconess Children's Services (con); Mary Ann Murphy, Juvenile Justice Advisory Committee (con); Jerry Sheehan, ACLU (con); Jim Whittenburg, Lobby for Social Concerns (con); Martha Hardin, (con); Susan Crowley, City of Seattle (concerns).