

SENATE BILL REPORT

SB 6448

As Reported By Senate Committee On:
Law & Justice, January 31, 1996
Ways & Means, February 6, 1996

Title: An act relating to juvenile offenders.

Brief Description: Changing provisions relating to juveniles.

Sponsors: Senators Smith, Kohl, Long, Hale, Winsley, Oke, Goings and Schow; by request of Governor Lowry and Attorney General.

Brief History:

Committee Activity: Law & Justice: 1/16/96, 1/31/96 [DPS].
Ways & Means: 2/5/96, 2/6/96 [DPS (LAW)].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6448 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

Staff: Lidia Mori (786-7755)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6448 as recommended by Committee on Law & Justice be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Hargrove, Hochstatter, Johnson, Kohl, Long, McDonald, Moyer, Quigley, Roach, Sheldon, Snyder, Spanel, Sutherland, West, Winsley and Wojahn.

Staff: Susan Lucas (786-7711)

Background: The Council on Families, Youth and Justice was created in 1994 by Governor Lowry. It was directed to review the current juvenile justice laws and recommend changes to improve the system. The Council on Families, Youth and Justice, along with the Juvenile Dispositions Standards Commission, the Juvenile Rehabilitation Administration and the Attorney General's office expressed concern that juvenile justice laws are not proportionate to the seriousness of the crime, and recommended greater flexibility for judges in sentencing and improved rehabilitation efforts.

Summary of Substitute Bill: The disposition range for a minor/first offender with from 1 to 109 points is 0 to 12 months community supervision, and/or 0 to 150 hours of community

service, and/or 0 to \$100 fine. The disposition range for a middle offender with from 1 to 109 points is 0 to 12 months community supervision, and/or 0 to 150 hours of community service, and/or a fine of 0 to \$100 and/or 0 to 30 days confinement. The mandatory minimum sentence for rape of a child in the first degree is 52 to 65 weeks, and for child molestation in the first degree it is 21 to 28 weeks.

A parent cannot be examined as to a communication made in the parent's presence by the parent's minor child to the child's attorney after the filing of juvenile offender or adult criminal charges. Juvenile court jurisdiction is extended to any parent, guardian, or custodian who has custody of a juvenile subject to the jurisdiction of juvenile court if the parent, guardian, or custodian is served with a summons requiring attendance at juvenile court hearings. A juvenile's parent, guardian or custodian is given notice of detention and dispositional hearings and is required to attend. Contempt of court may be pursued if the person fails to attend without reasonable cause. Courts are encouraged to hold hearings during nonstandard hours in order to facilitate parental participation.

The definition of "manifest injustice" includes a disposition that would fail to support the juvenile's need for sex offender treatment.

The offense of reckless endangerment is listed in Schedule A as reckless endangerment first degree with an offense category of B+ and reckless endangerment second degree. The offenses of failure to register for a class A felony and failure to register for a class B felony or less are added to Schedule A of the juvenile dispositions standards with offense categories of C and D respectively. The offenses of theft of a firearm, repeat stalking, and stalking first time are also added to Schedule A.

The secretary of the Juvenile Rehabilitation Administration is directed to submit a report on security at juvenile facilities by December 15 of each year.

A court may order an examination by a chemical dependency counselor for a middle offender with 110 points or more who commits an offense that is not a violent or a sex offense. If the court determines that the chemical dependent disposition alternative is appropriate, it imposes the standard range for the offense, suspends it, places the offender on community supervision for up to one year and requires outpatient or inpatient drug and/or alcohol treatment. As a condition of the suspended disposition, the court may impose community supervision and other sanctions, including up to 30 days of confinement.

Recommended prosecuting standards for charging and plea dispositions are added to the code.

A juvenile on parole may be required to participate in drug and alcohol, mental health, and other offense related treatment services, obtain employment, submit to electronic monitoring and random urinalysis, refrain from use of illegal drugs and alcohol and refrain from contact with specified people.

The Sentencing Guidelines Commission assumes the powers and duties of the Juvenile Disposition Standards Commission after June 30, 1996. It is directed to evaluate the effectiveness of existing disposition standards, solicit suggestions from the juvenile justice community regarding the disposition standards and make recommendations to the Legislature

regarding revisions to the standards. By December 1, 1997, and every two years after, the commission is required to report to the Governor and the Legislature regarding racial disproportionality in juvenile and adult sentencing, capacity of state and local juvenile and adult facilities, and recidivism of adult and juvenile offenders. The commission is directed to focus on protecting public safety by emphasizing punishment, deterrence, and confinement for violent and repeat offenders.

One point is added to a person's offender score if the present conviction is for an offense committed while the offender was on juvenile parole.

When an offender is being supervised on parole by the department, the parents of the child are liable for the costs of the parole supervision. The secretary of the Juvenile Rehabilitation Administration is given the authority to require juveniles sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion to comply with a program of parole that must be 24 months and may be up to 36 months.

A hearing to determine the question of declining juvenile court jurisdiction is required to be held when an information alleges an escape by the offender and he or she is serving a minimum sentence to age 21.

Whenever juvenile court declines jurisdiction, it may, instead of transferring the offender to adult court, classify the person as a youthful offender and keep the person in juvenile court. This can only occur in situations when the offender's standard range in adult court involves incarceration past the age of 21. Only offenders who are less than 15 years old may be classified by a court as youthful offenders. People that are classified as youthful offenders are entitled to all the rights that an offender would receive in the adult system. A youthful offender receives both an adult and a juvenile sentence. The adult sentence is suspended conditioned upon the offender's compliance with all the terms and conditions of the juvenile sentence, which includes confinement to age 21. No sooner than three months prior to the offender's 21st birthday, the offender must return to court for a determination of compliance with the juvenile sentence. A youthful offender may be remanded to the Department of Corrections to begin serving his or her adult sentence if the court finds that the offender is not likely to benefit from department services. In order to release a youthful offender from his or her adult sentence, the court must find by a preponderance of the evidence that the offender has meaningfully participated in rehabilitative programs, is not likely to reoffend, and does not pose a serious threat to the safety of others. If the youthful offender is released from the adult sentence at age 21, the court orders the offender to serve 24 months of community placement.

Substitute Bill Compared to Original Bill: The secretary of the Juvenile Rehabilitation Administration has the authority to require juveniles sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion to comply with a program of parole that must be 24 months and may be up to 36 months.

Only offenders who are under the age of 15 years may be classified as youthful offenders. A youthful offender may be remanded to the Department of Corrections to begin serving his or her adult sentence if the court finds that the offender is not likely to benefit from

department services. In order to release a youthful offender from his or her adult sentence, the court must find by a preponderance of the evidence that the offender has meaningfully participated in rehabilitative programs, is not likely to reoffend, and does not pose a serious threat to the safety of others. If the youthful offender is released from the adult sentence at age 21, the court orders the offender to serve 24 months of community placement.

Appropriation: None.

Fiscal Note: Requested on January 15, 1996

Effective Date: The bill takes effect on June 30, 1996, except for section 19 which takes effect immediately.

Testimony For (Law & Justice): The youthful offender option is aimed at younger offenders who commit very serious crimes. Judicial discretion is increased which is very needed. The bill encourages parental involvement which is often lacking when juveniles get into trouble with the law. This bill represents the efforts of many and is a well reasoned step forward.

Testimony Against (Law & Justice): The youthful offender option will seriously impair chances of getting juvenile court jurisdiction declined. Mandating parental attendance at detention hearings could impact a parent's job. The offenders released at 21 from the youthful offender option should be on community placement for at least one year.

Testified (Law & Justice): Christine Gregoire, Attorney General (pro); Gerard Sidorowicz, Assistant Secretary, Juvenile Rehabilitation Administration (pro); Scott Blonien, Attorney General's Office (pro); Tom McBride, WA Assn. of Prosecuting Attorneys, (con in part); Kurt Sharar, W State Assn. of Counties (pro with concerns); George LeClair, Children's Alliance; Margaret Casey, WA State Catholic Conference (pro); Pamela Eakes, Mothers Against Violence in America (pro with concerns); Jenny Wieland, Mothers Against Violence in America (pro with concerns).

Testimony For (Ways & Means): Changes in sentencing for crimes involving rape of a child and child molestation have the most fiscal impact on juvenile rehabilitation costs. The youthful offender option does not cost the Juvenile Rehabilitation Administration after the amendment by the Law and Justice Committee. The chemical dependency disposition alternatives save beds for the Juvenile Rehabilitation Administration because youth sentenced under this provision will be kept in the community and required to attend treatment. Capital budget impacts are primarily at Maple Lane School, where two prototypical buildings will be built and in the timeline for design of the new 300-bed facility.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Sid Sidorowicz, DSHS, Juvenile Rehabilitation Administration (pro).