2217-S2
Sponsor(s): House Committee on Appropriations (originally sponsored by Representatives Carrell, Mitchell, Thompson, Cooke, Boldt, Backlund and Johnson)

Brief Description: Changing provisions for at-risk youth.

HB 2217-S2.E - DIGEST

(DIGEST AS ENACTED)

Establishes procedures to assist families to cope with the problems presented by habitual runaways.

Requires providers of treatment to a minor to notify the parents.

Designates police procedures with regard to runaway children.

Designates procedures for dependency petitions.

Establishes procedures for the failure of a child to comply with placement orders.

Directs DSHS to contract with private vendors for transitional living programs for dependent youth.

VETO MESSAGE ON HB 2217-S2
March 22, 1996

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 4, 30, and 35, Engrossed Second Substitute House Bill No. 2217 entitled:

"AN ACT Relating to at-risk youth;"

My reasons for vetoing these sections are as follows:

Section 4 - Violation of Shelter Notification as a Misdemeanor Offense

Section 4 establishes penalties for violations of the requirement that shelter providers report the location of a known runaway to the youth's parents, local law enforcement, or the Department of Social and Health Services (DSHS) within 8 hours. It provides that a violation by a licensed child-serving agency shall be addressed as a licensing violation under RCW 74.15. It also provides that a violation by any other person is a misdemeanor offense.

I agree that a violation by a licensed child-serving agency should be addressed as a licensing violation. I also agree that it is appropriate to subject those persons who shelter runaway youths for the purpose of exploiting them to criminal sanctions for failure to report a youth's whereabouts. While I applaud the intent of this section to provide law enforcement with an additional tool for prosecuting those who would prey upon our youth, I have strong concerns about its overbreadth. Unwitting family members and friends who, in good faith attempt to provide

youths with a safe alternative to the street, are also subject to criminal prosecution under this section. Also subject to criminal prosecution are drop-in day centers which are not required to be licensed because they do not provide overnight shelter. I fear that the effect of this section will be to drive troubled youths underground, out of the reach of help, and into the hands of those who would exploit them.

Existing law provides law enforcement with a number of tools for prosecuting persons who illegally shelter or exploit youths. Under RCW 13.32A.080, it is a gross misdemeanor offense to harbor a minor unlawfully. RCW 9A.44 provides criminal penalties for the rape of a child. An adult responsible for involving a youth in the commission of a criminal offense may be prosecuted under several statutes, including: RCW 69.50.406, distribution of a controlled substance to a minor; RCW 9A.88.070, promoting prostitution of a minor; and RCW 9A.08.020, complicity of an adult in the crime of a minor. These tools afford law enforcement with significant ability to prosecute and punish those adults who exploit or abuse runaway youths.

Section 30 - Truancy Petitions

Section 30 adds clarifying language to RCW 28A.225.030. This section was also amended in Engrossed Substitute House Bill No. 2640 which includes fundamentally the same language as well as other substantive changes, which for clarity of code revision, are not properly merged with this section. The language and effect of section 30 are not lost by this technical veto.

Section 35 - Outpatient Mental Health Treatment: Parental Notification

Section 35 requires a provider of mental health outpatient treatment to notify the parents of a minor patient, age 13 years or older, of the provision of treatment to the minor upon completion of his or her second visit. A treatment provider may defer notification in two situations. The first situation is where the youth alleges parental abuse or neglect. In that case, the provider must notify DSHS for the purpose of initiating an investigation. If DSHS determines the allegation is not valid, then the provider must immediately notify the parent of the child's treatment. The second situation is if the provider believes the notification will interfere with the provision of treatment. In that case, the provider must notify DSHS, and DSHS must pursue either a dependency or a Child In Need of Services (CHINS) petition. If the department determines that neither petition is appropriate, then it shall notify the provider who, in turn, must notify the parent of the treatment.

In an attempt to avoid creating a barrier to initial treatment, this section delays the parental notification requirement until the completion of a youth's second visit. In addition, in an effort to provide safety for youths in unsafe homes and to avoid interfering with the provision of treatment, this section allows a treatment provider to defer parental notification

in certain situations. While I am pleased that this section acknowledges the need to maintain confidentiality in some situations, I do not believe the confidentiality safeguards set forth are sufficient to ensure that young people will feel safe seeking needed treatment.

First, I am concerned that despite the intent, the second visit notification requirement will have a chilling effect on young people seeking or continuing outpatient treatment. Providers will be compelled by their ethical responsibilities to advise youths at their first visit that the provider must break confidentiality upon completion of their second visit. Young people who, for whatever reason, fear their parents' learning of their participation in treatment are not likely to pursue treatment further. In some cases, a young person's ability to access treatment may mean the difference between life and death. Current clinical practice seeks to involve the family at the earliest appropriate point. The issue here is not whether parents should be notified of their child's treatment, but when and how. Taking this clinical decision out of the hands of the mental health professionals is simply contrary to a young person's best interest.

Second, while this section exempts from notification those youths a court finds have been abused or neglected or who are without a functional parent, it does require notification for all other young people. The need for confidentiality must not be limited to young people who have been abused or neglected or who are lacking a functional parent. The need for confidentiality encompasses all young people who fear their parents' real or anticipated reactions to their participation in mental health treatment. Our goal should be to maintain young people's access to confidential outpatient treatment in order to provide a safe place where they may find help and begin preparing themselves for addressing their problems with their family.

Finally, I believe that our confidentiality rules for substance abuse and mental health outpatient treatment should be mutually consistent. Pursuant to federal law, parental notification for substance abuse outpatient treatment is permissible only upon a youth's written consent or a determination that the youth lacks the capacity to consent. There is no reason to treat parental notification for mental health outpatient treatment any differently.

For these reasons, I have vetoed sections 4, 30, and 35 of Engrossed Second Substitute House Bill No. 2217.

With the exception of sections 4, 30, and 35, Engrossed Second Substitute House Bill No. 2217 is approved.

Respectfully submitted,
Mike Lowry
Governor