

HOUSE BILL REPORT

HB 3900

As Reported By House Committee On:

Law & Justice
Criminal Justice & Corrections
Appropriations

Title: An act relating to offenders.

Brief Description: Revising the Juvenile Code (Introduced with Senate sponsors).

Sponsors: Representatives Sheahan, Ballasiotes, Schoesler, Bush, Honeyford, Carrell, Chandler, Mitchell, Clements, Huff, Thompson, Hankins, Mulliken, Koster, Carlson, Cairnes, Cooke, Johnson, Skinner, Mastin, Smith, Crouse, Benson, Alexander, Talcott, Robertson, Lisk, Zellinsky, Boldt, Delvin, Sterk, Lambert, Hickel, Backlund and Pennington.

Brief History:

Committee Activity:

Law & Justice: 2/18/97, 2/27/97 [DPS];

Criminal Justice & Corrections: 2/18/97, 3/5/97 [DP2S(w/o sub LJ)];

Appropriations: 3/7/97, 3/8/97 [DP3S].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Carrell; Lambert; Radcliff; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 5 members: Representatives Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney and Lantz.

Staff: Edie Adams (786-7180).

Background:

1. JUVENILE COURT JURISDICTION

The juvenile court generally has exclusive original jurisdiction over a juvenile under the age of 18 who is alleged to have committed an offense, traffic infraction, or

violation. The code does not specifically provide that the juvenile court has jurisdiction over civil infractions. However, under current practice, the juvenile court does hear civil infraction cases.

A juvenile may be prosecuted as an adult in adult court if the juvenile is subject to "automatic decline" or if the juvenile court declines to exercise jurisdiction over the juvenile after a decline hearing.

Automatic Decline: A juvenile will be automatically prosecuted as an adult if the juvenile is 16 or 17 years old and the alleged offense is:

- (1) A serious violent offense; or
- (2) A violent offense and the offender has a criminal history consisting of:
 - (a) One or more prior serious violent offenses;
 - (b) Two or more prior violent offenses; or
 - (c) Three or more of any combination of the following offenses: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.

Decline Hearings: The juvenile court may decline to exercise jurisdiction over a juvenile offender and transfer the offender to adult court under a procedure called a decline hearing. The court may transfer the juvenile to adult court if, after considering all relevant information, the court finds that it would be in the best interest of the juvenile or the public to transfer the juvenile to adult court.

The prosecutor, the juvenile, or the court may file a motion for the transfer of any juvenile to adult court.

The court must hold a decline hearing, unless waived by all parties, under the following circumstances:

- (1) The juvenile is 15, 16, or 17 years old and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;
- (2) The juvenile is 17 years old and the information alleges: second-degree assault; first-degree extortion; indecent liberties; second-degree child molestation; second-degree kidnaping; or second-degree robbery.

2. DISPOSITION STANDARDS

If a juvenile is adjudicated of an offense, the court determines the disposition to be imposed on the offender based on a formula that considers the following factors:

- The seriousness level of the current offense;
- The age of the offender;
- The seriousness level of any prior criminal history; and
- The recency of any prior criminal history.

Based on these four factors, the juvenile offender receives a certain number of "points" that will determine, based on the type of offender, the standard range disposition for the offense. In general, an older offender will receive greater punishment or services than a younger offender for the same offense. In addition, an offender who has more criminal history, more serious criminal history, or more recent criminal history will receive greater punishment than an offender with less serious levels and types of criminal history.

Offenders are categorized as either "minor/first offenders," "middle offenders," or "serious offenders." A minor/first offender is a juvenile whose current offense and prior adjudications involve relatively few misdemeanors or gross misdemeanors. A serious offender is a juvenile who is 15 or older and who has committed certain serious offenses. A middle offender is an offender who does not meet the definition of either minor/first or serious offender.

A. Offense Category Schedule: The seriousness of an offense is determined according to the offense category schedule. The offense category schedule ranks offenses from A+ to E, with A+ offenses being the most serious and E offenses being the least serious. Generally, a class A felony is ranked as an A offense, a class B felony is ranked as a B offense, a class C felony is ranked as a C offense, a gross misdemeanor is ranked as a D offense, and a misdemeanor is ranked as an E offense. Murder 1 and murder 2 are the only A+ offenses.

B. Standard Range Disposition: The standard range disposition for an offender is determined by reference to a "grid" developed for each category of offender (minor/first, middle, or serious) that specifies the standard range based on the number of points calculated for the offender. A juvenile is generally under county jurisdiction if the offender is subject to a period of confinement of 30 days or less and under state jurisdiction if subject to confinement for more than 30 days. The Department of Social and Health Services Juvenile Rehabilitation Administration (JRA) supervises offenders under the jurisdiction of the state.

Minor/First Offenders: In general, minor/first offenders are under the jurisdiction of the county and may not receive a disposition of confinement. A minor/first offender may receive community supervision, community service hours, and a fine. The length of community supervision, the number of community service hours, and the amount of the fine that may be imposed vary depending on the number of points. For example, a minor/first offender with 1-19 points may receive 0-3 months of supervision, 0-8 hours of community service, and/or a fine of \$0-\$10, while a

minor/first offender with 70-79 points may receive 6-9 months of community supervision, 40-56 hours of community service, and/or a fine of \$0-\$50.

Middle Offenders: Middle offenders with less than 110 points are under the jurisdiction of the county and may receive community supervision, community service hours, a fine, and in some cases, a period of confinement. The standard range disposition is composed of a discrete range, depending on the offender's point total.

Middle offenders with more than 110 points are generally committed to the JRA, with a minimum commitment range of 8-12 weeks. Middle offenders with more than 110 points may receive an "option B" disposition that allows them to remain under county jurisdiction with community supervision and a possible period of 30 days of confinement.

Serious Offenders: Serious offenders must be committed to the JRA. The commitment range is determined based on the offender's point total. The minimum commitment range for an offender sent to JRA is 8 to 12 weeks. An offender who commits an A+ offense receives a commitment range of 180 to 224 weeks.

C. Disposition Alternatives:

Deferred Adjudication: Some offenders are eligible for deferred adjudication. Deferred adjudication allows the adjudication and disposition for an offense to be deferred for a specified period of time on the condition that the offender meet conditions of community supervision. If the offender complies with all conditions imposed by the court, the case is dismissed with prejudice. If the offender fails to comply with the terms of the deferred adjudication, the court enters an order of adjudication and a disposition for the offender. A successfully completed deferred adjudication does not count as criminal history.

Option B: Minor/first offenders and middle offenders with less than 110 points may receive an "option B" disposition of up to 12 months of community supervision, up to 150 hours of community service, and/or a fine of up to \$100. For middle offenders with less than 110 points, the court may also impose up to 30 days of confinement under option B.

A middle offender with more than 110 points is eligible for an "option B" suspended sentence. The court imposes the standard range disposition of confinement and then suspends that disposition on the condition that the offender comply with conditions of community supervision and serve up to 30 days of confinement.

Manifest Injustice: "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious and clear danger to society. If the court finds that the standard range disposition would effectuate a

manifest injustice, the court may impose a disposition outside the standard range. A manifest injustice disposition is available for minor/first, middle, and serious offenders.

Special Sex Offender Disposition Alternative (SSODA): Certain juvenile sex offenders may be ordered into treatment in the community, and placed on community supervision of up to two years, rather than serve a longer period in confinement. If the offender fails to comply with the treatment and supervision requirements, the offender is returned to custody. The state pays for the costs of initial evaluation and treatment of juvenile sex offenders who receive an SSODA disposition.

Firearms Enhancements: A juvenile found to have committed the offense of minor in possession of a firearm must receive a determinate disposition of 10 days of confinement and up to 12 months of community supervision. A juvenile who is armed with a firearm during the commission of a violent offense or certain other offenses must receive a firearms enhancement of 90 days of confinement added to the standard range disposition.

Juvenile Offender Basic Training Camp: A juvenile offender who is subject to a disposition of not more than 78 weeks, and who did not commit a violent offense or a sex offense is eligible for a 120-day basic training camp option. Upon successful completion of the basic training camp, the offender may serve the remaining term of confinement on intensive parole in the community.

3. AGE OF CAPACITY

Children who are eight but less than 12 years old are presumed to be incapable of committing crimes. This presumption may be overcome by proof that the child has sufficient capacity to understand the offense and to know that it is wrong. The prosecutor may file a motion for a hearing to determine a child's capacity.

4. PARENTAL INVOLVEMENT

When a juvenile is charged with an offense, the court must send the information to the juvenile's parents in order to notify them of the charges and to require them to appear and be parties to the arraignment proceedings. The Juvenile Justice Act does not explicitly state that the parents may be required to appear at other hearings involving the juvenile, or that the parents can be found in contempt for failing to appear.

Communications between an alleged juvenile offender and the juvenile's attorney are privileged, and the court cannot compel the attorney to disclose those communications. This privilege does not extend to a parent who is present when the communication between the juvenile and the attorney is made.

5. RESTITUTION

A juvenile offender is required to make restitution payments to compensate any person who suffered loss or damage as a result of the juvenile's offense. The court must determine how much restitution is owed in the disposition hearing and must include the payment of restitution in the order of disposition. The court may determine a restitution payment plan for an offender that extends for a period of 10 years if the offender cannot pay in a shorter period of time. The court does not have to impose restitution if the court determines that the juvenile lacks the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a 10-year period.

6. PAROLE

When a juvenile is released from confinement after the disposition term ordered by the court has been served, the Department of Social and Health Services (DSHS) may require the juvenile to comply with a program of parole. Parole may extend for a period no longer than 18 months, except for certain sex offenders whose period of parole must be 24 months. The parole program must include requirements that the juvenile refrain from possessing firearms or deadly weapons and refrain from committing new offenses. In addition, the parole program may require the juvenile to comply with a number of conditions, including requirements to undergo available medical or psychiatric treatment, pursue a course of study or vocational training, remain within prescribed geographical boundaries, and report to a parole officer.

The secretary of the DSHS has authority to issue arrest warrants for juveniles who escape from an institution. The secretary does not have explicit power to issue arrest warrants for juvenile offenders who abscond from parole supervision or fail to meet conditions of parole. In contrast, community corrections officers supervising adult offenders have explicit authority to arrest adult offenders who violate conditions of supervision or parole.

7. APPEALS

A juvenile disposition that is outside the standard range disposition may be appealed. The court of appeals may uphold a disposition outside the standard range only if it finds that the reasons considered by the judge clearly and convincingly support a finding of manifest injustice and that the sentence imposed was not clearly excessive or clearly too lenient.

If the court of appeals finds that the manifest injustice finding was not clearly and convincingly supported by the reasons of the judge, the court of appeals must remand the case for disposition within the standard range or for community supervision without confinement, if appropriate.

While an appeal is pending, the juvenile offender may not be committed or detained for a period in excess of the standard range for the offense, or 60 days, whichever is longer. Once this period expires, the court may impose conditions on the release of the offender pending the appeal.

8. JUVENILE RECORDS

A juvenile adjudicated of an offense may petition the court to vacate its order of adjudication and order the record sealed or destroyed. The court must grant the motion to seal if the court finds that two years have elapsed since the offense, or since the release of the juvenile from custody, if no criminal proceeding is pending against the person. If the court grants the motion, the proceedings are treated as if they never occurred, and the person may reply accordingly to an inquiry about his or her juvenile background.

A subsequent adjudication of a juvenile offense or crime nullifies the sealing order. A subsequent conviction for an adult felony nullifies the sealing order on records of the person's prior juvenile adjudications for class A offenses or sex offenses.

A person may ask the court to destroy the person's juvenile record. The court may grant the motion if the court finds that the person is at least 23 years old, has not subsequently been convicted of a felony, has no criminal proceeding currently pending, and has never been found guilty of a serious offense.

A person who is 18 and whose entire criminal history consists of one diversion may have the record destroyed if two years have elapsed since the completion of the diversion agreement.

9. MISCELLANEOUS JUVENILE PROVISIONS

Reckless Endangerment 1: A person is guilty of reckless endangerment in the first degree if the person recklessly discharges a firearm from a motor vehicle or the immediate area of a motor vehicle in a manner that creates a substantial risk of death or serious physical injury. First-degree reckless endangerment is a class B felony and is not included as a "violent offense."

Community-Based Rehabilitation and Sanctions: "Community-based sanctions" and "community-based rehabilitation" are components of "community supervision," which is a disposition that the court may impose on an adjudicated youth. Community-based sanctions include a fine not to exceed \$100 and community service hours. Community-based rehabilitation includes attendance at school, counseling, treatment programs, and other informational or educational classes.

Courtesy Disposition Hearings: If a juvenile is adjudicated in one county, but resides in another, the case may be transferred to the offender's county of residence for the disposition hearing. The jurisdiction that receives the transfer of the juvenile is responsible for the costs of the transfer.

Violations of Orders to Pay Monetary Penalties or Perform Service: When a juvenile offender violates an order of the court, the court may impose additional sanctions on the juvenile for that violation, including confinement for up to 30 days. If the violation is of a court order to pay fines, penalties, or restitution, or to perform community service hours, the court may assess confinement at a rate of one day per each \$25 or eight hours owed.

10. ADULT PROVISIONS

A. Inclusion of Juvenile Adjudications in an Adult's Criminal History: Some but not all juvenile criminal history is included in the calculation of an adult's offender score, which is used to determine the adult's sentence.

Juvenile adjudications for sex offenses and serious violent offenses are always included in an adult offender's criminal history. Prior juvenile adjudications for other class A felony offenses are counted if the offender was 15 or older at the time of the offense. Prior adjudications for class B and C felonies or serious traffic offenses are counted only if the offender was 15 or older at the time of the juvenile offense, and less than 23 at the time of the adult offense for which he or she is being sentenced.

Prior juvenile adjudications that are entered or sentenced on the same date count only as one prior offense, except that if the offenses were violent offenses with separate victims, the offenses are counted separately.

Under the adult sentencing code, a "first-time offender" is eligible for a waiver of the standard range sentence on the condition that the offender meet certain conditions. A "first-time offender" is an adult offender convicted of a felony that is not classified as a violent or sex offense or certain drug offenses. A juvenile adjudication for an offense committed before the age of 15 does not count as a prior felony except for sex offenses and serious violent offenses.

Misdemeanors and gross misdemeanors do not contribute to an adult's offender score. The court may consider them for the purposes of imposing an exceptional sentence.

B. Special Sex Offender Sentencing Alternative (SSOSA) Costs: SSOSA is a discretionary sentencing option allowing a judge to give an eligible sex offender a suspended sentence, including sex offender treatment in the community, if doing so will benefit the community and the offender. The costs of sex offender treatment under a SSOSA disposition must be paid by the offender.

Summary of Substitute Bill:

1. JUVENILE COURT JURISDICTION

Automatic Decline: The category of juvenile offenders who are subject to automatic decline to adult court is expanded to include any juvenile who is 16 or 17 and alleged to have committed a violent offense.

Civil Infractions: The juvenile court is specifically granted jurisdiction over juveniles alleged to have committed a civil infraction.

2. DISPOSITION STANDARDS

A. Offense Category Schedule: The following changes are made to the offense category schedule:

- Reckless Endangerment 1 is renamed "Drive-By Shooting" and is increased from a B to a B+ offense.
- Vehicle Prowling is increased from a D to a C offense.
- Obstructing a Law Enforcement Officer is increased from an E to a D offense.
- Rape of a Child 2 is increased from a B to a B+ offense.
- Child Molestation 1 is increased from a B+ to an A- offense.
- Child Molestation 2 is increased from a C+ to a B offense.
- Residential Burglary, Theft of a Firearm, and Possession of a Stolen Firearm are all specifically added as B offenses (currently they are all B offenses by default).

B. Standard Range Disposition: The current structure for determining an offender's standard range disposition is replaced with a new disposition grid. The distinction between minor/first, middle, and serious offenders is removed. The standard range disposition for any juvenile offender is determined based on two factors: the seriousness of the current offense and the number of prior felony adjudications. The age of the offender, the seriousness of prior felony adjudications, prior misdemeanor offenses, and the recency of prior adjudications are no longer considered in determining the standard range disposition. Prior misdemeanor offenses and the seriousness of prior felony adjudications may be considered for the purposes of imposing a disposition outside the standard range.

Based on the current offense seriousness level and the number of prior felony adjudications, a juvenile offender will receive a standard range disposition of either local sanctions or commitment to the JRA.

Local Sanctions: Local sanctions may consist of up to 30 days of confinement, up to 12 months of community supervision, up to 150 hours of community service hours,

and up to a \$500 fine. A misdemeanor or gross misdemeanor offender receives a standard range disposition of local sanctions, regardless of prior adjudications.

Commitment to the JRA: The initial JRA commitment range is increased to 24-36 weeks. An offender who commits a B+ or more serious offense receives a standard range disposition of commitment to the JRA for at least 24-36 weeks. Other felony offenders will receive commitment to the JRA only if the offender has one or more prior felony adjudications. An offender who commits an A+ offense is committed to the JRA for 180 weeks up to age 21.

C. Disposition Alternatives:

Deferred Adjudication: Deferred adjudication is replaced with deferred disposition. If a juvenile agrees to a deferral of disposition, after a plea of guilty or after a determination of guilt upon a reading of the record, the court may continue the case for disposition for up to one year and place the juvenile on community supervision. If the juvenile complies with all conditions of the deferral, the juvenile's adjudication is vacated and the case is dismissed with prejudice. If the juvenile fails to comply with the terms of the deferral, the court enters a disposition for the offense. A juvenile is not eligible for a deferred disposition if the current offense is a sex offense or violent offense, the juvenile's criminal history consists of any felony, or the juvenile has a prior deferred disposition, or more than two diversions. A successfully completed deferred disposition does not count as criminal history.

Manifest Injustice: Prior misdemeanor offenses and the seriousness of prior felony adjudications may be considered by the court for the purposes of imposing a disposition outside the standard range.

Chemical Dependency Disposition Alternative (CDDA): A new disposition option is created for certain juveniles who are chemically dependent and who will benefit from a chemical dependency disposition. Offenders with a standard range disposition of local sanctions or commitment to JRA for 24-36 weeks and who have not committed an A- or B+ offense are eligible for this disposition. The court may suspend the standard range disposition on the condition that the offender undergo available outpatient or inpatient drug/alcohol treatment and comply with conditions of community supervision. The court may impose up to 30 days of confinement. The sum of confinement time and inpatient treatment may not exceed 90 days.

Special Sex Offender Disposition Alternative (SSODA): If the court determines that an offender is eligible for the SSODA, the court may impose and then suspend a manifest injustice sentence in order to provide a greater incentive for the offender to comply with the conditions of the SSODA disposition. The length of community supervision that may be imposed on an offender given a SSODA disposition is changed to at least two years.

Firearms Enhancements: The disposition that the court must impose for an offender who is found in violation of minor in possession of a firearm is changed to at least 10 days.

The firearms enhancement imposed on a juvenile who was armed with a firearm during the commission of an offense is changed to apply to any felony offense, other than firearms-related offenses. The enhancement is six months for a class A felony, four months for a class B felony, and two months for a class C felony.

Juvenile Offender Basic Training Camp: Eligibility for the basic training camp is changed to those offenders who receive a disposition of up to 65 weeks of confinement.

3. AGE OF CAPACITY

The age at which a child is presumed capable of committing crimes is lowered from 12 to 10 years of age. The court must hold a hearing for a juvenile who is 10 or 11 years old, and who is alleged to have committed an offense, to provide the juvenile with an opportunity to rebut the presumption of capacity.

4. PARENTAL INVOLVEMENT

A new goal of the juvenile justice system is to encourage and require parents to participate in juvenile offender proceedings against their child. To achieve those goals, the court is required to give parents notice of pertinent hearings, must require parents to attend, and may hold parents in contempt for failing to attend.

A limited testimonial privilege is established for communications made between a child and an attorney in the presence of a parent. A parent may not be examined concerning a communication made by the parent's child to the child's attorney in the presence of the parent after the filing of juvenile offender or adult criminal charges.

A juvenile who is detained may only be released to a responsible adult or the DSHS.

5. RESTITUTION

In a disposition hearing, the court may set a hearing for a later date to determine the amount of restitution owed, rather than making that determination at the disposition hearing. A restitution payment plan may extend for 10 years after the juvenile's 18th birthday. The ability of the court to not impose restitution on an offender who does not have the means to make full or partial restitution, and could not reasonably acquire the means to pay, is removed.

6. PAROLE

Certain sex offenders may receive up to 36 months of parole if the secretary of the DSHS determines that the extended parole period is necessary in the interests of public safety, or to meet the ongoing needs of the juvenile. The conditions of parole that may be imposed on a juvenile who is released from custody are expanded to include requirements to: (1) undergo drug/alcohol, sex offender, mental health, and other offense-related treatment services; (2) pursue employment; (3) notify the parole officer of the current address; (4) be present at a particular address during specified hours; (5) submit to electronic monitoring; (6) refrain from using illegal drugs and alcohol, and submit to random urinalysis testing; (7) refrain from contact with certain people; (8) pay fines and restitution; and (9) perform community service.

The secretary may issue arrest warrants for juveniles who abscond from parole or fail to meet parole conditions.

7. APPEALS

If the court of appeals finds that the juvenile court's reasons for finding a manifest injustice are not clearly and convincingly supported, the court of appeals must remand the case for a disposition within the standard range. The time restrictions that apply when committing or detaining a juvenile pending appeal are removed so that the juvenile may be detained for the entire appeal period, even if this period exceeds the standard range disposition for the offense.

8. JUVENILE RECORDS

The requirements for the sealing of a juvenile's records are changed. Juvenile records relating to class B felonies, other than sex offenses, may only be sealed if the offender has spent 10 years in the community without committing a crime. Juvenile records relating to class C felonies, other than sex offenses, may be sealed after the offender has spent five years in the community without committing a crime. In addition, a juvenile record for any offense may not be sealed until the offender has paid full restitution.

The subsequent charging of an adult felony nullifies a sealing order on the offender's juvenile records.

The ability to destroy the records of a juvenile adjudication for certain offenders, except offenders who only have a history of one diversion, is removed.

9. MISCELLANEOUS JUVENILE PROVISIONS

Reckless Endangerment 1: Reckless endangerment 1 is renamed "drive-by shooting" and added to the definition of "violent offense."

Community-Based Rehabilitation and Sanctions: The definition of "community-based sanction" is amended to increase the amount of the fine to \$500. The definition of "community-based rehabilitation" is amended to include employment.

Courtesy Disposition Hearings: The ability of a court to transfer the disposition hearing to the jurisdiction where the juvenile resides is removed.

Violations of Orders to Pay Monetary Penalties or Perform Service: The provision specifying that violations of orders to pay monetary penalties or to perform community service are converted to confinement at a rate of one day for each \$25 or eight hours is removed.

Guardian Ad Litem: A guardian ad litem is not required in a proceeding in a court of limited jurisdiction where the alleged offender is 16 or 17 years old and the alleged offense is a traffic, fish, boating, or game offense, or a traffic or civil infraction.

10. ADULT PROVISIONS

A. Inclusion of Juvenile Adjudications in an Adult's Criminal History: An adult's criminal history includes all juvenile adjudications, regardless of the age of the juvenile at the time of the offense. Prior juvenile adjudications entered or sentenced on the same date are counted as separate offenses, unless they encompass the same criminal conduct.

Juvenile adjudications for offenses committed before the age of 15 count as prior offenses in determining whether an adult offender is a "first-time offender."

B. SSOSA Costs: The state must pay the costs of the initial examination and treatment of an offender under adult court jurisdiction who is less than 18 and who is given an SSOSA sentence.

11. MISCELLANEOUS PROVISIONS

A provision of the code requiring the Sentencing Guidelines Commission to submit a report on juvenile disposition standards to the Legislature by December 1, 1996, is repealed.

A provision establishing the Juvenile Disposition Standards Commission, which ceased to exist on June 30, 1996, is repealed.

A provision requiring prosecutors to develop prosecutorial filing standards in juvenile cases based on a 1993 report is repealed.

The section of the bill that contains the amendments to the offense category schedule and the dispositions standards and grid are null and void unless the automatic decline section of the bill becomes law.

Substitute Bill Compared to Original Bill: The original bill did not contain the following components of the substitute bill: (1) the firearms enhancement amendment that requires an enhancement of six months for a class A felony, four months for a class B felony, and two months for a class C felony; (2) the restrictions on the sealing of a juvenile offense record that provide that records relating to class B felonies may not be sealed for 10 years and records relating to class C felonies may not be sealed for five years; (3) the authority for a juvenile to be released from custody or detention to the DSHS; (4) the expansion of the conditions of parole that may be imposed to include up to 36 months of supervision for certain sex offenders and requirements to undergo crime-related treatment, submit to electronic monitoring, pursue employment, refrain from using drugs and alcohol and submit to random urinalysis testing, and other conditions; (5) the provision that a guardian ad litem is not required for a 16- or 17-year-old who is before a court of limited jurisdiction for an alleged traffic, fish, boating, or game offense; (6) the limited testimonial privilege for a parent; and (7) the proviso that the amendments to the dispositions standards and grid are null and void if the automatic decline provision does not become law.

The substitute bill authorizes, but does not require, the secretary of the DSHS to issue arrest warrants for offenders who abscond from parole. The original bill required the secretary to issue arrest warrants. The substitute bill lowers the age of capacity from 12 to 10 and requires a hearing for 10- and 11-year-old juveniles to allow the juvenile to rebut the presumption of capacity. The original bill did not lower the age of capacity but required a mandatory hearing for 10- and 11-year-old juveniles where the prosecutor could rebut the presumption of incapacity. The substitute bill lowers the term of confinement for which an offender is eligible for the basic training camp option from up to 78 weeks to up to 65 weeks. The original bill lowered this eligibility term to up to 36 weeks.

The original bill contained a requirement, not contained in the substitute bill, for the DOC and the JRA to conduct a study to determine the feasibility and desirability of transferring juvenile offender services to the DOC.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The juvenile justice system doesn't respond effectively to today's juvenile offenders who are increasingly committing more violent crimes at a younger age. Most violent crimes are now committed by 15-, 16-, and 17-year-olds. The juvenile offenders of today don't care about anything and have little respect for society or laws. The current system is a joke, and juveniles know it. It does little or nothing with young offenders on their first few brushes with the law. The system needs to address juveniles up front with early intervention. Stronger laws are needed to let juveniles know that there will be consequences to their actions. Parental involvement is an important component, and the bill should include a privilege for the parent, child, and attorney. The bill simplifies the overly complex current system and provides early intervention and some real consequences for juveniles who engage in criminal activity. The bill appropriately draws the line at age 16 for violent offenders who need to be held accountable for their serious behavior. It counts juvenile criminal history for adult offenders who have continued to commit crimes. It increases the discretion of judges to impose an appropriate sentence on an offender, and it allows the system to address the chemical dependency problems of juveniles.

Testimony Against: This bill misses the opportunity to help 16- and 17-year-old first-time offenders who will go straight to the adult system without a chance for rehabilitation. This bill flies in the face of research that indicates that sending juveniles to the adult system is a quick-fix that will not protect society in the long run, because juveniles who are prosecuted in the adult system have a higher rate of recidivism. The automatic decline of juveniles removes a judge's flexibility to determine which juveniles should be in the adult system and which should not. The Legislature directed the Sentencing Guidelines Commission to consider the age of the offender and non-confinement as an option in looking at revisions to the juvenile sentencing standards, and this bill does the exact opposite. The effect of the sentencing standards contained in this bill is to treat serious, older offenders the same as less serious, younger offenders, and this sends the wrong message. The age of capacity should not be lowered, because there is a world of difference in maturity between a 10-year-old and a 17-year-old.

Testified: Norm Maleng, King County Prosecuting Attorney (pro); Russ Hauge, Kitsap County Prosecuting Attorney (pro); Mike Patrick, Washington State Council of Police Officers (pro); Jim Scharf, Everett Police Chief (pro, with suggestions); Linda Grant, Association of Alcoholism and Addictions Programs (pro); Helen Harlowe, Tennis Shoe Brigade (pro); Melva Levick, citizen (pro); Anita Schaerhoff, citizen (pro); Judge Leonard Costello, Superior Court Judges Association (pro, in part); Pete Peterson, Washington Association of Juvenile Court Administrators (pro, in part); Donna Schram, Sentencing Guidelines Commission (pro, in part); Ned Dolejsi, Washington State Catholic Conference (concerns); Paula Maranan, Children's Alliance (concerns); Mike Shaw, Washington State Association of Counties (concerns); Lorraine Lee, Governor's Policy Office (concerns); Scott Blonien, Attorney General's Office (concerns); Sid Sidorowicz, Assistant Secretary, Juvenile

Rehabilitation Administration, Department of Social and Health Services (suggestions); Robert Barnoski, Washington Institute for Public Policy; Simmie Baer, King County Public Defender's Office (con); Charles Hastings, citizen (con); Mike Seely, Mothers Against Violence in America (con); and Dan Bond, Governor's Juvenile Justice Advisory Committee (con).

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

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 10 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; O'Brien, Assistant Ranking Minority Member; Cairnes; Delvin; Hickel; Mitchell; Robertson and Sullivan.

Minority Report: Do not pass. Signed by 3 members: Representatives Quall, Ranking Minority Member; Blalock and Dickerson.

Staff: Pat Shelledy (786-7149).

Summary of Recommendation of Committee on Criminal Justice & Corrections Compared to Recommendation of Committee on Law & Justice: The provision in the underlying bill regarding the age of capacity of 10- and 11-year-old juveniles is restored.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: None.

Testimony Against: None.

Testified: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 17 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; Benson; Cooke; Crouse; Dyer; Lambert; Lisk; Mastin; McMorris; Parlette; D. Schmidt; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 14 members: Representatives H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky; Carlson; Chopp; Cody; Grant; Keiser; Kenney; Kessler; Linville; Poulsen; Regala and Tokuda.

Staff: Dave Johnson (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Law & Justice: The act is made null and void if funding is not provided in the budget to implement it.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 9, 1997.

Effective Date of Third Substitute Bill: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: The juvenile justice system doesn't respond effectively to today's juvenile offenders who are increasingly committing more violent crimes at a younger age. There has been a 90 percent increase in violent juvenile crime in the last 10 years. The bill treats older, violent, offenders appropriately and focuses resources on more rehabilitatable youth. The current system is a joke, and juveniles know it. It does little or nothing with young offenders on their first few brushes with the law. The system needs to address juveniles up front with early intervention. The bill simplifies the overly complex current system and provides early intervention and some real consequences for juveniles who engage in criminal activity. It increases the discretion of judges to impose an appropriate sentence on an offender, and it allows the system to address the chemical dependency problems of juveniles.

Testimony Against: This bill misses the opportunity to help 16- and 17-year-old first-time offenders who will go straight to the adult system without a chance for rehabilitation. There should be more money given to the non-profits who provide service and education -- that is what youth need. A portion of the MVET should be dedicated to funding grants for local intervention program and this bill does not do

that. This bill is contrary to research that indicates that sending juveniles to the adult system will not protect society in the long run, because juveniles who are prosecuted in the adult system have a higher rate of recidivism. The automatic decline of juveniles removes a judge's flexibility to determine which juveniles should be in the adult system and which should not. That decline hearing process under current law has worked, and is working well. The bill may impact local governments because of increased discretion but that concern can be managed and addressed.

Testified: Representative Larry Sheahan, prime sponsor (pro); John Kurry, citizen (con); Dick Carlson, Washington Association of Juvenile Court Administration (pro, in part); Lorraine Lee, Governor's policy office (concerns); Sid Sidorowicz, Juvenile Rehabilitation Administration (available for questions); Margaret Casey, Washington State Catholic Conference (concerns); and Tom McBride, Washington Association of Prosecuting Attorneys (pro).