

HOUSE BILL REPORT

ESSB 6600

As Passed House - Amended:

March 6, 1998

Title: An act relating to education of juveniles incarcerated in adult correctional facilities.

Brief Description: Establishing an education program for juveniles incarcerated in adult correctional facilities.

Sponsors: Senate Committee on Education (originally sponsored by Senators T. Sheldon, Hochstatter, Long, Kohl, Oke and Winsley; by request of Superintendent of Public Instruction).

Brief History:

Committee Activity:

Education: 2/24/98, 2/27/98 [DPA];

Appropriations: 2/28/98 [DPA(ED/APP)s].

Floor Activity:

Passed House - Amended: 3/6/98, 98-0.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 6 members: Representatives Johnson, Chairman; Hickel, Vice Chairman; Smith; Sterk; Sump and Talcott.

Minority Report: Without recommendation. Signed by 5 members: Representatives Cole, Ranking Minority Member; Keiser, Assistant Ranking Minority Member; Linville; Quall and Veloria.

Staff: Charlie Gavigan (786-7340).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Education as such amendment is amended by Committee on Appropriations. Signed by 28 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson;

Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; D. Schmidt; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 3 members: Representatives Chopp; Regala and Tokuda.

Staff: Jack Daray (786-7178).

Background: Generally, local school districts must provide basic education to children that reside in the district who are 5 years or older up to age 21. The school district also is responsible for providing educational services to juvenile offenders (adjudicated in juvenile court) under the jurisdiction of county authorities or the Department of Social and Health Services. School districts must provide education services for persons with disabilities between the ages of 3 and 21.

A juvenile may be prosecuted as an adult in adult criminal 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. Persons convicted as adults typically are incarcerated in county adult correctional facilities or Department of Corrections' facilities. The Department of Corrections must provide a program of education to an inmate under the age of 18 who has not met high school or general equivalency degree (GED) requirements. The department must provide the inmate with a choice of a curriculum that will assist the inmate in achieving either a diploma or a GED. In addition, to the extent funds are available, state law requires that the Department of Corrections help all inmates achieve basic academic skills.

Federal law may require that inmates with disabilities who are 18 years or older up to 22 years old, whose disability was identified prior to age 18, be provided special education services.

Summary of Bill: The Superintendent of Public Instruction (SPI) must select an education provider to provide education services to juveniles in Department of Corrections adult correctional facilities. SPI notifies and solicits proposals from interested and capable entities. The school district where there is a juvenile education site in an adult correctional facility has first priority. If the school district does not exercise its priority, it must notify SPI within 30 calendar days of the solicitation. The Educational Service District (ESD) where there is a juvenile education site in an adult correctional facility has second priority. If the ESD elects not to exercise its priority, it must notify SPI within 45 days of the solicitation. If neither the school district nor ESD chooses to operate an education program, other entities, such as community and technical colleges, four-year institutions of higher learning, and private contractors have the opportunity to do so. Only school districts and ESDs may award diplomas. If no one chooses to provide the education service, the local ESD must do so within 90 days.

A contract must be entered into with the selected education provider specifying the duties and setting forth a dispute resolution procedure. Except as provided by contract, the selected education provider must be limited to the following duties: (1) employing and supervising administrators, teachers, and other persons conducting the program, subject to security clearances by the Department of Corrections (DOC); (2) providing education materials and supplies; (3) conducting a program for inmates under the age of 18 subject to applicable state and federal law; and (4) with the permission of the DOC, and under rules adopted by SPI, conducting an education program for 18-year olds who wish to continue their participation in an education program.

The DOC and heads of its correctional facilities have the following responsibilities: (1) provide access to an education program for inmates under the age of 18; (2) provide space and equipment; (3) provide heat, lights, and other building support; (4) provide custodial and security services; (5) provide clinical and medical services; (6) provide other reasonable support services; (7) establish behavior standards for students participating in education programs, subject to federal and state law; and (8) notify SPI and the education provider of any foreseeable reduction in inmate levels by April 15 of each year. If DOC does not make the notifications, it is responsible for the provider's resulting staff costs.

SPI must: (1) allocate funds appropriated by the Legislature for this act; and (2) adopt implementation rules. Classified and certificated employees that are employed to provide services in an adult correctional facility are represented by separate bargaining units.

The DOC and SPI must conduct a study to determine the educational needs of inmates incarcerated in local jails and DOC prisons and the impact and ability of providing these services through local school districts, community and technical colleges, private vendors, juvenile detention centers, and DOC facilities. Preliminary reports are due in May and September, with a final report and recommendations due by November 1, 1998.

The Legislature intends that this act satisfy any constitutional duty to provide education services to juveniles in adult correctional facilities.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 27, 1998.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Education) Local school districts should not be required to provide education services in adult correctional facilities. This bill will establish a process for finding a willing and capable education provider. The process for selecting the education provider and the process for providing the education services if no willing and capable

provider is contracted with should be modified by amendment. This bill is a start but does not address the issues of juveniles in jails or issues regarding special education.

(Appropriations) This is an opportunity to find out more about the educational needs of juveniles incarcerated in adult prisons and jails. The proposed study will assess what educational programming best fits their needs and what educational programs can reasonably be delivered.

Testimony Against: (Education) None.

(Appropriations) The proposal to require county jails, rather than school districts, to provide educational programs means that state funds need to be available to local government to contract with educational organizations and personnel to provide education in the jails. It may be a problem for local governments to qualify for federal special education funds. There is nothing new about juveniles being incarcerated in adult corrections facilities and the state needs to improve programs to meet its obligation to provide an education consistent with the basic education act. One solution to provide the efficiency to run good programs would be to have a single superintendent for all the institution and jail based education programs rather than depending on local school districts which may resent putting on these programs.

Testified: (Education) Senator Sheldon, prime sponsor; Jean Ameluxen, Office of Superintendent of Public Instruction; Jean Stewart, Department of Corrections; and Margaret Casey, Washington State Catholic Council (all pro with amendment).

(Appropriations) Representative Peggy Johnson, (pro); Michael Shaw, Washington Association of Counties (con); and Margaret Casey, Washington State Catholic Conference (con).