

# FINAL BILL REPORT

## E2SSB 6445

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Synopsis as Enacted

**Brief Description:** Modifying provisions relating to children placed in community facilities.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Long, Hargrove, Haugen, Zarelli, McAuliffe, Franklin and Winsley).

**Senate Committee on Human Services & Corrections**

**Senate Committee on Ways & Means**

**House Committee on Criminal Justice & Corrections**

**House Committee on Appropriations**

**Background:** In September of 1997, a 17-year-old resident in a Juvenile Rehabilitation Administration (JRA) community placement group home walked away from his job and raped and murdered a 12-year-old babysitter during a burglary. The subsequent investigation revealed that JRA did not have vital school record information and information regarding the juvenile's previous law enforcement encounters.

The federal Family Education Rights and Privacy Act (FERPA) limits the transfer of education records to transfers with the prior notice and consent of both juveniles and their parents. FERPA provides two exceptions for transfers for law enforcement purposes: (1) Records may be transferred prior to trial in order to effectively serve the juvenile. These transfers generally require prior notification to the juvenile and his or her parents. (2) After conviction, records may be transferred without consent only by a subpoena containing a nondisclosure order.

Current Washington statutes do not reflect the most recent changes in FERPA and may provide conflicting direction to the schools. JRA reports that it has been difficult to obtain complete, timely, records necessary for conducting risk assessment for juveniles placed with the agency. These records are necessary to assist JRA to address individual needs, to serve the juvenile effectively, and to provide juveniles with the best placement to assist them to successfully make a smooth transition to nonoffender status.

In addition to risk assessment concerns, the investigation raised other concerns about placing juveniles in the community. These include: inadequate distinctions between group homes for children with and children without criminal convictions; inadequate employee screening; inadequate night staffing at some facilities; inconsistent communication with local law enforcement and JRA; inconsistent documentation of infractions and violations; inconsistent monitoring of juveniles in school and work placements; and inadequate community participation and information.

**Summary:** The Department of Social and Health Services (DSHS) must establish a process for community involvement in the siting of JRA group homes through mandated public hearings.

DSHS must work with local governments to develop a process that allows each community to establish community placement oversight committees. The committees will review and make recommendations regarding placement of juveniles in community facilities. The Legislature intends the committees, their members, and the agencies represented by the members to be immune from liability for their good faith actions in placement decisions.

DSHS must adopt a policy for the common use of group homes for JRA juveniles and non-JRA children. DSHS must not place juveniles who commit any class A felony with non-JRA children, unless the JRA juveniles are housed in separate living units, or are in a specialized treatment program and are neither sexually aggressive, nor sexually vulnerable if the program houses any sexually aggressive non-JRA youth.

DSHS must establish a violation policy that includes a definition of serious infractions and serious violations. All criminal offenses and all drug or alcohol violations are defined as serious violations. DSHS must return juveniles who commit serious infractions or serious violations of their placement conditions to an institution. Juveniles who have been returned to an institution following a violation may not subsequently be placed in a community facility until a new risk assessment is completed and the secretary determines that the juvenile can adhere to the conditions of the community facility placement. DSHS must maintain records of juveniles' infractions and violations.

Each service provider must report to DSHS every known violation or infraction a juvenile offender commits. Serious infractions and serious violations must be reported immediately upon discovery. All other infractions and violations must be reported within 24 hours of discovery. DSHS must document reported violations. Service providers that fail to report juveniles' known violations are subject to both monetary penalties and contract sanctions or termination. DSHS must give great weight to a service provider's record of infractions and violations in any execution, renewal, or renegotiation of the service provider's contract.

DSHS must publish and maintain a staffed 24-hour toll-free phone line for reporting a juvenile's violations of community placement conditions. The phone number must be distributed to the persons most likely to have contact or supervisory authority over any juvenile. It must also be included in all service provider contracts and monitoring agreements.

Any juvenile placed in a school, work, or volunteer situation must be subject to monitoring agreements. These agreements acknowledge the juvenile's status as an offender, provide for notification when they discover any condition is breached, and provide for accountability checks and performance reviews of the juvenile by the JRA group home. The agreements must be in writing and signed by the juvenile, the employer, supervisor, or school, JRA, and the contracting service provider. Both DSHS and the service providers must keep a copy of the executed agreements.

Juveniles are not eligible for placement in a community facility until they have spent at least 10 percent of their sentences, but not less than 30 days, in a secure institution.

Eligible juveniles may not be placed in a JRA group home unless:

- (1) The juvenile's school records have been received and reviewed in conjunction with other information to conduct a risk assessment and security classification and the risk assessment, including a determination of drug and alcohol abuse, is complete;
- (2) The completed risk assessment indicates that the juvenile will not pose more than a minimum risk to public safety;
- (3) The community placement oversight committee, if one exists, has reviewed and acted on the placement; and
- (4) Local law enforcement has been properly notified.

The department must request education records for first-time offenders after conviction by a subpoena. The prosecutor or local probation department must request records for all juveniles with one or more previous convictions prior to trial. The Legislature intends that education records will be used to perform a risk assessment that will assist JRA to address individual needs, to serve the juvenile effectively, and to provide juveniles with the best placement to assist them to successfully make a smooth transition to nonoffender status.

Employees and volunteers must pass background checks. Persons who have committed sex offenses or violent offenses are prospectively disqualified from positions in which they may have more than nominal access to JRA children. Failure to report a post-employment conviction constitutes misconduct.

The Washington State Institute for Public Policy must conduct a study that includes an evaluation of the: (a) security, staffing and operation; (b) offender intake and assessment procedures; (c) violation history and appeals process for violations and infractions committed by juveniles; (d) community involvement in placement decisions; (e) juvenile detention standards; and (f) recidivism rates for certain classes of juveniles receiving parole services compared with similar juveniles not receiving those services.

**Votes on Final Passage:**

Senate	49	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

**Effective:** September 1, 1998