

SENATE BILL REPORT

ESSB 6600

As Passed Senate, February 17, 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: 1/23/98, 2/3/98 [DPS-WM].

Ways & Means: 2/9/98, 2/10/98 [DPS (EDU)].

Passed Senate, 2/17/98, 49-0.

SENATE COMMITTEE ON EDUCATION

Majority Report: That Substitute Senate Bill No. 6600 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hochstatter, Chair; Finkbeiner, Vice Chair; Goings, Johnson, McAuliffe, Rasmussen and Zarelli.

Staff: William Bridges (786-7424)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6600 as recommended by Committee on Education be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Fraser, Hochstatter, Long, Loveland, McDonald, Roach, Rossi, Schow, B. Sheldon, Snyder, Spanel, Swecker, Thibaudeau and Winsley.

Staff: Bill Freund (786-7441)

Background: An increasing number of juveniles are being incarcerated in adult prisons. These facilities are primarily equipped to educate adults and many lack the resources to teach juveniles. With the enactment of ESHB 3900 in 1997, the Department of Corrections (DOC) is required to assist juvenile inmates in obtaining high school diplomas or General Equivalency Diplomas. But current law is silent regarding the Superintendent of Public Instruction's (SPI) duties in providing services for juveniles incarcerated in adult facilities. In November 1997, a class action comprised of juvenile inmates in adult facilities was filed against SPI and DOC seeking (1) full basic education for youth under 21 years old, (2)

special education programming for youth under 22 years old, and (3) compensatory educational services for youth beyond 21 years old.

Summary of Bill: The Legislature intends that school districts and Education Service Districts (ESDs) should be the primary educators of juvenile inmates in adult correctional facilities. These districts may provide services outside their legal boundaries. If a school district or ESD does not provide education programs to juvenile inmates, other entities, such as community and technical colleges, four-year institutions of higher learning, and private contractors have the opportunity to do so. However, only school districts and ESDs may award diplomas.

Findings. The Legislature finds that this act will satisfy any constitutional duty to provide education programs to juveniles in adult correctional facilities.

Selection of Education Provider. SPI must select an education provider by notifying and soliciting proposals from all 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 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 local school district nor local ESD chooses to operate an education program, SPI may contract with an entity within 60 days of the day of solicitation. If SPI does not contract with an entity, then the local ESD must begin operating an education program within 90 days of the day of solicitation.

Duties of Education Provider. The selected education provider and DOC must execute written contracts specifying the duties of each party 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 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 DOC, conducting an education program for 18-year olds who are continuing their participation in an education program. An education program under this act may include basic education as well as other training such as conflict resolution counseling.

Duties of Department of Corrections. DOC and heads of correctional facilities have the following duties: (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.

Duties of Superintendent of Public Instruction. SPI has the following duties: (1) allocate funds appropriated by the Legislature for this act; and (2) adopt rules to implement this act.

Fiscal Provisions. School districts and ESDs may only spend appropriated funds to educate juvenile inmates. No levy expenditures are permitted.

Collective Bargaining. Classified and certificated employees that are employed to provide services in an adult correctional facility are represented by separate bargaining units.

Compulsory Attendance Exemption. Juveniles in adult correctional facilities are excused from compulsory school attendance.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately, except Section 10 which takes effect September 1, 1998.

Testimony For: This bill will take the pressure off school districts containing adult correctional facilities and increase choice of education providers. The substitute bill provides a solution to the current problem of procuring a viable education program for incarcerated juveniles age 18 or younger.

Testimony Against: The bill violates the state constitutional mandate that all children receive basic education because no organization must provide educational services. Federal law applies to special education services for inmates 18 to 22 years old. The bill does not provide for education in jails. Finding education providers by competitive bid will take too long. The substitute bill is an improvement over the original bill but does not address youth in county jails or juveniles over age 18.

Testified: Sherry Appleton, Criminal Defense Bar (concerned); Margaret Casey, Washington State Catholic Conference (pro/con); Ross Gallagher, Shelton School District (pro); Don Gardner, Mason County citizen (pro); Jennifer Priddy, SPI (pro); Jean Stewart, Department of Corrections (neutral).

House Amendment(s): The House amendment retains the text of ESSB 6600 as adopted by the Senate on February 17, 1998. However, the House amendment also requires DOC and SPI to study the issues surrounding the education of inmates under the age of 21 in jails and prisons. DOC and SPI must consult with a variety of organizations and people who may assist the study. By May 1, 1998, DOC and SPI must provide to several legislative committees a profile of all offenders under the age of 21 incarcerated in a DOC facility. By September 1, 1998, DOC and SPI must provide to the legislative committees a profile of inmates under the age of 21 in county jails between the effective date of this act and August 1, 1998.

By September 1, 1998, DOC and SPI must also make a preliminary report to the legislative committees identifying: (1) the educational needs of inmates under the age of 21 in adult correctional facilities; (2) the impact on security and penological needs of providing these educational services; (3) the ability of local school districts, community and technical colleges, private vendors, juvenile detention centers, and the correctional institutions to provide educational services; (4) the various capital and operating costs of providing basic educational services or basic skills education to inmates under 21 and to inmates with disabilities, under 18

or between 18 and 21, where the disability was identified or provided for prior to incarceration in the adult facility; and (5) the educational organizations that are able and willing to provide the educational services. The final report is due November 1, 1998.