

HOUSE BILL REPORT

HB 1745

As Reported By House Committee On:
Criminal Justice & Corrections
Appropriations

Title: An act relating to a juvenile offender community sanction sentencing alternative.

Brief Description: Creating a juvenile offender community sanction sentencing alternative.

Sponsors: Representatives Lambert and Kagi.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/16/99, 2/24/99 [DP];

Appropriations: 3/5/99, 3/6/99 [DP].

Brief Summary of Bill

- Adds a community-based sentencing option for certain juvenile offenders.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Jean Ann Quinn (786-7310).

Background:

Juveniles who commit criminal offenses are subject to the provisions of the Juvenile Justice Act, which is based on a determinative sentencing model and prescribes presumptive disposition ranges commensurate with the seriousness of the current offense and the offender's prior criminal history. In 1997, the Legislature made comprehensive changes to the sentencing options under the Juvenile Justice Act effective, generally, with respect to offenses committed on or after July 1, 1998. The options are now as follows:

Option A: Juvenile Offender Sentencing Grid. Offenses are ranked by categories from A+ to E, with A+ being the highest and E being the lowest. The standard disposition range for each of these offenses is calculated by determining, on the sentencing grid, the intersection of the offense category and the number of prior offenses. Each prior felony adjudication counts as one point on the sentencing grid. Each prior violation, misdemeanor, or gross misdemeanor adjudication counts as 1/4 point (fractions are rounded down). Dispositions range from local sanctions at the low end to a term of confinement of 180 weeks through age 21 at the high end. Local sanctions can include 0-30 days confinement, 0-12 months community supervision, 0-150 hours community service, and/or a fine of up to \$500. When the standard range includes a term of confinement exceeding 30 days, commitment is to the state Juvenile Rehabilitation Administration.

Option B: Chemical Dependency Disposition Alternative (CDDA). If the juvenile offender is subject to a standard range disposition of local sanctions, or 15-36 weeks of confinement, and has not committed an A- or B+ offense, the court, under a finding that the offender is chemically dependent and amendable to treatment, may suspend an Option A standard range disposition on the condition that the offender undergo inpatient/outpatient drug or alcohol treatment and community supervision of up to one year. The court may also require up to 30 days confinement, 150 hours of community service and/or payment of legal financial obligations and restitution. The suspension may be revoked and the disposition executed for violating conditions or failing to make satisfactory progress in treatment.

Option C: Manifest Injustice. If the court determines that a disposition under Option A or B would effectuate a manifest injustice, the court shall impose a disposition outside the standard range. The disposition must be comprised of confinement or community supervision, or a combination of the two. The court's findings of manifest injustice must be supported by clear and convincing evidence. The disposition is appealable by the state or by the offender.

Special Sex Offender Disposition Alternative (SSODA). Certain juvenile sex offenders may be ordered into treatment and placed on community supervision for at least two years and the disposition (either within the standard range or under Option C) is suspended. The court may impose conditions of community supervision and other conditions, including up to 30 days of confinement. A disposition entered under this option is not appealable.

Summary of Bill:

Sentencing Option D « Community Sanction Disposition Alternative « is added. The court may order this alternative in lieu of confinement in a state institution with respect to juvenile offenders who: (1) are presently subject to a standard range disposition of

confinement in a state institution; (2) have not committed a sex offense, a serious violent offense, or other violent category A felony; and (3) have not been previously committed to a state institution. The court must assess the risk to the public's safety and the probability of the offender's rehabilitation in the community before ordering this alternative. The court must also enter a finding of mitigating circumstances, such as that the respondent's conduct neither caused nor threatened serious bodily injury or the respondent did not contemplate that his or her conduct would cause or threaten serious bodily injury; the respondent acted under strong and immediate provocation; or the respondent was suffering from a mental or physical condition that significantly reduced his culpability for the offense though failing to establish a defense.

Under this sentencing alternative, the standard range disposition is imposed, but it is suspended, and the offender is placed on community supervision for up to 12 months. The court must also impose up to 30 days of confinement, up to 150 hours of community service, and the payment of legal financial obligations and restitution. The court can also require the offender to participate in rehabilitation programming in the community, including school, employment, vocational programs, or outpatient mental health or substance abuse treatment. If the offender violates any of the conditions of the disposition, the court may impose sanctions or revoke the suspended disposition and order execution of the standard disposition, with credit for time served.

This sentencing option is similar to "Option B" in effect prior to July 1, 1998.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This legislation brings back what was called Option B under the old system. It could result in a dramatic cost savings « as much as \$7 million in this biennium and \$13 million in the next. The bill is consistent with the 1997 legislation that reorganized the sentencing system for juvenile offenders, and gives local courts more options to fashion a remedy appropriate to the circumstances. The legislation contains tight controls over the exercise of this option. The court must assess the risk, enter a finding of mitigating circumstances, and find that the offender is amenable to rehabilitation before ordering this alternative. Also, if community sanctions are unsuccessful, the offender can be committed to the Juvenile Rehabilitation Administration.

Studies have shown that community-based programs are effective in reducing recidivism. A 1992 study showed that the recidivism for offenders coming out of the Juvenile Rehabilitation Administration was approximately 30 percent higher than the rate for

offenders sentenced under Option B. The existing "manifest injustice" option should not be used because it is intended to be the exception, not the rule.

Testimony Against: When the system was reformed two years ago, many of the offenses that would have been handled under the old Option B were moved into the "local sanctions" range. Thus, the 1992 study is not necessarily relevant because it would now be a different group of offenders. When the 1997 legislation was passed, prosecutors decided that either suspended sentence or deferred disposition should be an alternative, but not both. We already have the deferred disposition option « this legislation would add the other back in. Also, the "manifest injustice" alternative already covers the problem, and it is appealable. It is important to let the new system work and complete the studies before changing it again.

Testified: (In support) Representative Lambert, prime sponsor; Martha Harden, Superior Court Judges Association; Judge Paula Casey, Superior Court Judges Association; Priscilla Martens, Behavioral Sciences Institution; Paola Maranan, Children's Alliance; and George Yeannakis, Washington Defender Association.

(Opposed) Tom McBride, Washington Association of Prosecuting Attorneys.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 29 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

Minority Report: Do not pass. Signed by 2 members: Representatives Benson and Mulliken.

Staff: Dave Johnson (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Criminal Justice & Corrections: No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill is important for families -- juveniles can be held accountable without causing significant damage to families. Youth supervised in the community have lower recidivism rates than those sent to an institution. This would give judges more flexibility to deal with criminal behavior and is consistent with the changes which took effect last year.

Testimony Against: The recent major changes to the juvenile justice system are just now taking effect. Juvenile crime is dropping. The Juvenile Rehabilitation Administration (JRA) has excess capacity rather than being crowded. Many of the offenders who received the old option B will already receive only community sanctions because of the changes which took effect just last year. The prosecutors felt the legislation enacted two years ago was right, and they oppose this bill.

(Concerns) The estimated savings to JRA are probably overstated as they are based on experiences prior to the 1998 changes to the system. The local government fiscal note fails to include the cost of local supervision.

Testified: (In support) Paola Maranan, Children's Alliance; Dan Erker, Juvenile Court Administrators; and Martha Harden, Superior Court Judges Association.

(Opposed) Tom McBride, Washington Association of Prosecuting Attorneys.

(Concerns) Sid Sidorowicz, Juvenile Rehabilitation Administration, Department of Social and Health Services.