

HOUSE BILL REPORT

SSB 5214

As Passed House - Amended:

April 16, 1999

Title: An act relating to detention of minors who illegally possess firearms on school facilities.

Brief Description: Providing for additional investigations when a student is charged with possession of a firearm on school facilities.

Sponsors: Senate Committee on Education (originally sponsored by Senators McAuliffe, Long, Fairley, Kohl-Welles, Eide, Costa, Kline, Thibaudeau and Winsley).

Brief History:

Committee Activity:

Judiciary: 4/1/99 [DPA];

Appropriations: 4/5/99 [DPA(APP w/o JUDI)s].

Floor Activity:

Passed House - Amended: 4/16/99, 92-3.

Brief Summary of Substitute Bill (As Amended by House Committee)

- Requires the detention and mental evaluation of any person age 12 through age 21 who is arrested for illegal possession of a firearm on school property.
- Requires search of a student's possessions and locker whenever there are reasonable grounds to suspect the student illegally possesses a firearm.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Bill Perry (786-7123).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Judiciary. Signed by 26 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; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Keiser; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Mulliken; Rockefeller; Ruderman; Sullivan and Wensman.

Minority Report: Do not pass. Signed by 6 members: Representatives Kagi; Kenney; McIntire; Parlette; Regala and Tokuda.

Staff: Dave Johnson (786-7154).

Background:

Incidents of violence in schools in this state and elsewhere have raised concerns about ensuring and promoting school safety. Several laws already in place deal with dangerous weapons in schools and with the confinement and treatment of dangerously mentally ill persons.

Possession of Dangerous Weapons on School Property. With several exceptions, it is a gross misdemeanor under the state's firearms law for a person to possess a firearm or other dangerous weapon on school property. Exceptions are provided for various persons and for students under certain circumstances, such as involvement in firearms training events. School officials must promptly report violations of this law to law enforcement agencies and to the parents of a student involved. School administrators are also required to report annually to the Superintendent of Public Instruction on the number of violations of this law. These criminal provisions, exceptions, and reporting requirements apply to public and private elementary and secondary schools.

Under the state's education code, if a student at a public elementary or secondary school possesses a firearm on school property, the student must be expelled for at least one year. However, the superintendent of the school may modify the expulsion.

Mental Health Evaluations and Commitments. Minors or adults may be referred for psychological evaluation and possible voluntary or involuntary treatment of a mental disorder. Under the mental health services for minors law, school officials and others may refer a minor student for evaluation and possible inpatient treatment. This law has procedural requirements for reviewing decisions about treatment and has substantive standards regarding who may be involuntarily detained or committed for inpatient treatment.

Generally, a person may be subject to these laws if he or she suffers from a "mental disorder" and as a result presents a "likelihood of serious harm."

- A mental disorder is defined as "any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions."
- A likelihood of serious harm is defined as either:
 - presenting a substantial risk of inflicting physical harm on self or others, or on the property of others, as evidenced by threats or attempts or other behavior; or
 - threatening the physical safety of another coupled with a history of at least one violent act.

Evaluations under the involuntary commitment laws are done by a "county-designated mental health professional" (CDMHP). Evaluations of minors must be done by a CDMHP who is a "children's mental health specialist." A CDMHP is a mental health professional appointed by one or more counties to do evaluations under the involuntary commitment laws. A CDMHP may be a psychiatrist, psychologist, psychiatric nurse, or social worker, or other mental health professional authorized by the Department of Social and Health Services. A children's mental health specialist is a CDMHP who has had at least 100 hours of specialized training and who has had at least one year's experience in treating children under the supervision of another children's mental health specialist.

Minors over the age of 12 may be committed for involuntary treatment without parental consent. Younger minors may not be committed without parental consent.

Whenever a CDMHP determines that a minor qualifies for involuntary treatment, the minor may be taken to an evaluation and treatment facility. Within 24 hours of admission, the minor must be evaluated by a children's mental health specialist, and within 72 hours must be afforded a hearing. Initial commitments are for up to 14 days. At any time during that period, a commitment of up to 180 days may be sought. Thereafter, successive 180-day commitments may be sought if a petition is filed with the court at least five days before the expiration of the current commitment. Upon reaching age 18, a person must be released or committed for treatment under the adult involuntary commitment law.

Similar procedures exist for the involuntary treatment of persons with chemical dependencies.

Student Locker Searches. Under court decisions and state statute, school officials are authorized to search a student's possessions and locker if there are reasonable grounds to suspect the search will yield evidence of a violation of the law or of school rules.

Summary of Amended Bill:

Whenever a person at least 12 years old, but not more than 21 years old, is arrested for illegal possession of a firearm on school grounds, the person must be detained for 72 hours unless released sooner by a court. Within 24 hours of arrest the person must be referred to a CDMHP for evaluation. If the CDMHP so recommends, the person shall also be referred for a chemical dependency evaluation. The court is to consider the results of these evaluations in making any determination about the person.

Search of a student's possessions and locker is made mandatory if there are reasonable grounds to suspect the student possesses a firearm illegally.

The provisions of the bill are null and void if funding is not provided for in the omnibus appropriations act.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 7, 1999.

Effective Date of Amended 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: (Judiciary) Current law only requires suspension from school for bringing a gun onto school property. That is inadequate protection. Many of these children who bring guns to school are really crying out for help. The bill will help see that these students are evaluated for mental problems.

(Concerns) The substitute bill requires CDMHPs to make assessments they are not qualified to make. These evaluations should be made by psychiatrists or psychologists. There may be fiscal impacts for the counties. Not every county has a detention facility, so the logistics of holding minors may be a problem.

(Appropriations) None.

Testimony Against: (Judiciary) None.

(Appropriations) Care should be taken to avoid abridging the rights of children. The fiscal note may not reflect all of the costs of this bill. While the concept behind the bill is admirable, the bill has procedural problems. For example, children under the age of 12 are considered to be incapable of forming the requisite intent to commit a crime. The bill needs to account for the need to establish capacity.

Testified: (Judiciary) (In support) Senator McAuliffe, prime sponsor.

(In support with suggested amendments) Nancy Nolda, Washington Association of County-designated Mental Health Professionals.

(In support with concerns) Jean Wessman, Washington State Association of Counties.

(Appropriations) Sherry Appleton, Washington Defender Association and Washington Association of Criminal Lawyers.