

SENATE BILL REPORT

SB 5520

As Reported By Senate Committee On:
Human Services & Corrections, March 2, 1999
Ways & Means, March 8, 1999

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

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

Sponsors: Senators Costa, McCaslin, Kohl-Welles, Winsley and McAuliffe.

Brief History:

Committee Activity: Human Services & Corrections: 2/12/99, 3/2/99 [DPS-WM, DNPS].
Ways & Means: 3/5/99, 3/8/99.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5520 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles and Patterson.

Minority Report: Do not pass substitute.

Signed by Senators Sheahan, Stevens and Zarelli.

Staff: Lynn Hale (786-7430)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5520 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Kline, Kohl-Welles, Rasmussen, B. Sheldon, Snyder, Spanel, Thibaudeau and Wojahn.

Minority Report: Do not pass substitute.

Signed by Senators Honeyford, McDonald, Roach, Rossi, West and Zarelli.

Staff: Bryon Moore (786-7826)

Background: Juvenile offenders are subject to the provisions of Juvenile Justice Act, which prescribes a presumptive disposition based on the seriousness of the current offense and offender's prior criminal history. Offenders whose standard confinement range is greater than 30 days are committed to the Juvenile Rehabilitation Administration. It is felt by some that when mitigating circumstances exist the court should have the discretion to impose

community sanctions, including community service, confinement, or the payment of legal financial obligations and restitution, for offenders who have not been previously committed to a state institution.

Summary of Second Substitute Bill: When a juvenile offender is subject to a standard range disposition of confinement, the court may order a community sanction disposition in lieu of institutional confinement. An offender who has committed a sex offense, a serious violent offense, or other violent category A felony is not eligible for a community sanction disposition.

In making the decision to order a community sanction disposition, the court must assess the risk to public safety and the probability of the offender's rehabilitation in the community. The court may only enter an order for a community sanction disposition if it finds mitigating circumstances exist such as: 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.

If the court determines that a community sanction disposition alternative is appropriate, the court must impose the standard range for the offense, suspend execution of the disposition, and place the offender on community supervision for a term not to exceed 12 months.

The court may impose conditions of community sanctions such as 0 to 30 days of confinement, up to 150 hours of community service, and the payment of legal financial obligations and restitution. The offender may be required to participate in rehabilitation programming in the community including school, employment, vocational programs, or outpatient mental health or substance abuse treatment.

If a victim wishes to voice his or her opinion regarding the appropriateness of a community sanction disposition, the court must hear and give great weight to the testimony.

If the offender violates any conditions of the community sanction disposition, the court may impose sanctions or revoke the suspended disposition and order execution of the standard range disposition. If the suspended sentence is revoked, the court must give credit for any confinement time previously served.

The court is allowed to impose conditions beyond those allowed in diversion agreements for offenders that opted for a trial rather than a diversion process.

The Juvenile Rehabilitation Administration and the Washington Association of Juvenile Courts Administrators must develop a method for distributing to the counties for the purpose of providing financial assistance in meeting the processes and services required by the Family Reconciliation Act and Truancy Act (commonly referred to as Becca legislation) from the savings realized by the use of the community sanction disposition alternative.

The distributions are subject to appropriation by the Legislature. Any distributions must be credited to any liability the state has under unfunded mandate claims related to county costs in implementing Becca legislation.

Second Substitute Bill Compared to Substitute Bill: Clarifying language is added stating that the distributions are subject to appropriation by the Legislature. The provision allowing distributions to be credited to any liability the state has under unfunded mandate claims related to county costs in implementing Becca legislation is added.

Substitute Bill Compared to Original Bill: Technical corrections are made by the Code Reviser's Office to correct cross-references to another statute. The provision requiring that judges impose only those conditions allowable under a diversion agreement for offenders who refuse diversion is removed. A provision is added that entitles victims to voice their opinion regarding the sanction alternative if they choose to do so.

A provision is added that the Juvenile Rehabilitation Administration and the Washington Association of Juvenile Courts Administrators develop a method for distributing to the counties for the purpose of providing financial assistance in meeting the processes and services required by the Family Reconciliation Act and Truancy Act from the savings realized by the use of the community sanction disposition alternative.

Appropriation: None.

Fiscal Note: Available.

Effective Date: July 1, 1999.

Testimony For (Human Services & Corrections): Community-based sanctions will connect youth with resources within their communities and help establish supports they will need to be successful and not re-offend. Judges will only be able to use this sentencing alternative in limited circumstances and where community safety will be maintained. It allows local judges and communities who are more familiar with the offender to assess the safety risk of keeping the youth in the community under local restrictions and conditions. Community sanction disposition alternatives help keep families together by keeping the offender in the community. Recidivism rates are lower when community based sanctioning alternatives are utilized.

Testimony Against (Human Services & Corrections): When the 1997 legislation was passed that removed community sanction disposition alternatives as a sentencing option, the prosecutors decided that either suspended sentences or deferred dispositions should be an alternative, not both. The deferred disposition option already exists; this legislation adds the other back in. The prosecutors feel that the new system should be given an opportunity to work before other changes are made. Further, a study on the system as it now exists should be completed prior to making any further changes.

Testified (Human Services & Corrections): PRO: Paola Maranan, The Children's Alliance; Priscilla Martens, Behavioral Science Institute; George Yeannakis, Washington Defender's Association; Leonard Costello, Superior Court Judge's Association; Dick Carlson, Washington Association of Juvenile Court Administrators; Dan Erker, Washington

Association of Juvenile Court Administrators; PRO W/CONCERNS: Jenny Wieland, Washington Coalition of Crime Victim Advocates; CON: Tom McBride, Washington Association of Prosecuting Attorneys.

Testimony For (Ways & Means): Research shows that recidivism is lower for offenders receiving community based disposition alternatives. This uses state resources prudently without compromising public safety. It is another tool that judges can use to impact an offender's life. Returning the savings to counties will help address growing criminal justice expenditures at the local level.

Testimony Against (Ways & Means): The potential is that this could result in the Juvenile Rehabilitation Administration reducing capacity that could be needed in future years. This community disposition alternative takes away prosecutorial flexibility in addressing criminal behavior. It also compromises public safety by placing offenders that have committed serious crimes in the community.

Testified (Ways & Means): PRO: Senator Jeri Costa, prime sponsor; Martha Harden, Superior Court Judges' Association; Paola Maranan, The Children's Alliance; NEUTRAL: Sid Sidorowicz, Juvenile Rehabilitation Administration; CON: Tom McBride, Washington Association of Prosecuting Attorneys.