

SENATE BILL REPORT

ESHB 1524

As Reported by Senate Committee On:
Human Services & Corrections, April 1, 2013

Title: An act relating to juvenile mental health diversion and disposition strategies.

Brief Description: Providing for juvenile mental health diversion and disposition strategies.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Clibborn, Goodman, Maxwell, Kagi, Orwall, Appleton, Ryu, Ormsby, Jinkins, Fey and Bergquist).

Brief History: Passed House: 3/06/13, 75-23.

Committee Activity: Human Services & Corrections: 3/18/13, 4/01/13 [DP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Pearson, Vice Chair; Darneille, Ranking Member; Baumgartner, Hargrove, Harper and Padden.

Staff: Kevin Black (786-7747)

Background: A police officer who has reasonable cause to believe a person who is known to suffer from mental illness committed a misdemeanor may take the person to a diversion facility instead of jail, refer the person to a designated mental health professional for an involuntary commitment evaluation, or release the person based upon an agreement to voluntarily participate in mental health treatment. In deciding how to proceed, the officer must be guided by standards mutually agreed upon with the local prosecutor.

A prosecutor may divert certain charges against a juvenile if the juvenile does not have two or more prior diversion agreements, was not armed with a firearm, and does not have a criminal history consisting of a felony or more than one misdemeanor or gross misdemeanor. A prosecutor must divert a misdemeanor or gross misdemeanor charge which is a first offense, or a prostitution or prostitution loitering charge if there is no prior prostitution or prostitution loitering offense. No class A or B felony is eligible for diversion.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A diversion agreement is a contract between a juvenile and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. The court may require up to ten hours of counseling pursuant to a diversion agreement.

A deferred disposition is a sentencing alternative following adjudication of a juvenile that allows the juvenile to comply with conditions over a period of time in exchange for vacation and dismissal of charges if the conditions are fulfilled. Deferred dispositions are not available to juveniles charged with violent or sex offenses, or those who have a criminal history which includes a felony or more than one prior adjudication.

Summary of Bill: If the local prosecutor enters into an agreement with law enforcement, a police officer who has reasonable cause to believe that a juvenile committed a misdemeanor that is not serious, and believes that the juvenile suffers from a mental disorder, may take the juvenile to an evaluation and treatment facility, or other facility agreed upon between the prosecutor and law enforcement, instead of taking the juvenile to a juvenile detention facility. The juvenile may be held involuntarily at the facility for up to 12 hours, and must be examined by a mental health professional within three hours of arrival.

A prosecutor may divert a juvenile offense that is otherwise eligible for diversion if the juvenile does not have three or more prior diversion agreements.

If the assessment of a juvenile identifies mental health needs, the court may require up to 30 hours of counseling pursuant to a diversion agreement. The counseling sessions may include services demonstrated to improve behavioral health and reduce recidivism.

The court may require a juvenile participating in a deferred disposition to undergo a mental health or substance abuse assessment and comply with treatment conditions congruent with the assessment in a program that has been demonstrated to improve behavioral health and reduce recidivism.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill invites cooperation and preplanning between law enforcement and mental health providers. We are aware of the financial challenges that local jurisdictions face and the need for flexibility in communities where resource levels differ. We have to take into consideration adolescent brain development. Diversion can send lives in alternative, positive directions. We should not allow the criminal justice system to substitute for a mental health system. Increased use of diversions may impact offending behavior as well as behavioral health. The pre-filing diversion provision in statute is rarely used. We conducted a stakeholder process to look at more effective alternatives for young people. We should be systematic and thoughtful about the types of interventions we provide to troubled youth. If you address issues early, you avoid problems

later on. It frustrates prosecutors to see an adult offender with a history of juvenile interventions that were not effective. Street level diversions may be a better way to handle some cases, and is kinder on the taxpayers. Research shows that youth with low risk of offending who come in contact with the juvenile justice system have poorer outcomes than youth who are diverted from the system, and that youth who are provided with services have the best outcomes of all. The increase in the number of counseling hours will allow more effective interventions to be implemented that are evidence based.

Persons Testifying: PRO: Representative Roberts, prime sponsor; Eric Trupin, Sarah Walker, University of WA; Tom McBride, WA Assn. of Prosecuting Attorneys.