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SENATE BILL 6445

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State of Washington

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By Senators Anderson, Sutherland, Oke, Winsley, Spanel, Hochstatter, Haugen, Roach, Loveland, Moyer, Cantu, McDonald, A. Smith, West, L. Smith, Nelson, Prince, Erwin, Sellar, Morton, Deccio, Amondson and M. Rasmussen

Read first time 01/24/94. Referred to Committee on Law & Justice.

1 AN ACT Relating to juvenile serious habitual offenders; adding a  
2 new chapter to Title 13 RCW; creating a new section; prescribing  
3 penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that a substantial and  
6 disproportionate amount of serious crime is committed by a relatively  
7 small number of chronic juvenile offenders commonly known as serious  
8 habitual offenders. In enacting this chapter the legislature intends  
9 to support increased efforts by the juvenile justice system comprised  
10 of law enforcement, prosecuting attorneys, juvenile probation and  
11 detention, and schools, to identify these offenders early in their  
12 careers, and to work cooperatively to investigate and record their  
13 activities, prosecute them aggressively, and to supervise them  
14 intensively in institutions and in the community. The legislature  
15 further supports increased interagency efforts to gather comprehensive  
16 data and actively disseminate it to the agencies in the juvenile  
17 justice system, to produce more informed decisions by all agencies in  
18 that system through organizational and operational techniques that have  
19 already proven their effectiveness in this and other states.

1        NEW SECTION.     **Sec. 2.**     (1) There is established within the  
2 department of community, trade, and economic development a program of  
3 financial assistance for law enforcement, prosecuting attorneys, and  
4 probation departments designated the "serious habitual offender  
5 program." All funds appropriated to the department of community,  
6 trade, and economic development for the purposes of this chapter shall  
7 be administered and disbursed by the department, and shall, to the  
8 greatest extent feasible, be coordinated or consolidated with federal  
9 funds that may be made available for these purposes. Funding for this  
10 program shall include the cost to the department of community, trade,  
11 and economic development for administering the grants.

12        (2) Allocation and award of funds for the purposes of this chapter  
13 shall be made upon application by a prosecuting attorney, a local law  
14 enforcement agency, or a probation department.

15        A policy board shall be established consisting of one  
16 representative each from prosecuting attorneys, law enforcement  
17 agencies, and juvenile probation and detention agencies, one being from  
18 the division of juvenile rehabilitation. The policy board shall assist  
19 the department of community, trade, and economic development in an  
20 advisory capacity in the selection of applicants to receive grants and  
21 oversee the serious habitual offender program. The department may  
22 allocate and award funds to the coordinating applicant agency that has  
23 obtained written and signed agreements from the administrator of the  
24 jurisdiction's prosecutor's office, juvenile probation and detention  
25 agency, and a participating law enforcement agency which commit to  
26 establishing policies and criteria in substantial compliance with the  
27 requirements set forth in this chapter for the establishment of a  
28 serious habitual offender program.

29        The coordinating applicant agency shall use the funds to create an  
30 information gathering and analysis unit responsible for the  
31 identification of serious habitual offenders and for the dissemination  
32 of information about the activities of those offenders to the criminal  
33 justice system. This unit shall participate in the planning, support,  
34 and assistance of activities required in section 4 of this act. Funds  
35 disbursed under this chapter shall not supplant local funds that would,  
36 in absence of the program established by this chapter, be made  
37 available to support the juvenile justice system.

1        NEW SECTION.    **Sec. 3.**    (1) For an offender to qualify for this  
2 program, the offender must have been convicted or entered diversion for  
3 a crime and have met criteria established by the participating  
4 agencies' council of representatives for placement in the program. The  
5 established criteria must be devised so as to identify those  
6 individuals, within the jurisdiction, who comprise the six to eight  
7 percent, or less, of the jurisdiction's serious habitual offenders.  
8 The criteria must be based on the criminal activity of the offenders.  
9 The criteria may be similar to but not limited to:

10        (a) Accumulated five or more total arrests; with at least three  
11 arrests for crimes chargeable as felonies and at least three of those  
12 five arrests having occurred within the preceding twelve months;

13        (b) Accumulated ten or more total arrests; with at least two  
14 arrests for crimes chargeable as felonies and at least three arrests  
15 having occurred within the preceding twelve months;

16        (c) Been arrested at least once for three or more burglaries,  
17 robberies, or sexual assaults within the preceding twelve months; or

18        (d) Accumulated ten or more total arrests; with at least eight  
19 arrests for misdemeanor crimes of theft, assault, battery, narcotics or  
20 controlled substance possession, substance abuse, or use or possession  
21 of weapons, and at least three of those arrests having occurred within  
22 the preceding twelve months.

23        (2) Arrests for infractions or conduct described as status offenses  
24 shall not be utilized in determining whether an individual is described  
25 in subsection (1) of this section. All arrests used in determining  
26 eligibility for selection for program participation that did not result  
27 in a filing of charges by the prosecutor's office shall be certified by  
28 the prosecutor as having been substantiated by probable cause.

29        (3) In applying the selection criteria of this section, a program  
30 may elect to limit its efforts to persons described in the categories  
31 listed in subsection (1) of this section, or specified felonies, if  
32 crime statistics demonstrate that the persons so identified present a  
33 particularly serious problem in the county, or that the incidence of  
34 the felonies so specified present a particularly serious problem in the  
35 county. The above definitions are minimum standards for identifying  
36 serious habitual offenders and do not preclude program agencies from  
37 establishing stricter criteria in identifying serious habitual  
38 offenders.

1        NEW SECTION.    **Sec. 4.**    (1) The jurisdiction's coordinating agency  
2 shall be a law enforcement, juvenile probation, or prosecutor's office,  
3 and shall do all of the following:

4        (a) Coordinate with the jurisdiction's council of participating  
5 agency representatives and identify serious habitual offenders in  
6 accordance with the established selection criteria.

7        (b) Compile and maintain active serious habitual offender lists and  
8 circulate data on serious habitual offenders to participating agencies  
9 on a routine basis.

10       (c) Compile comprehensive profiles on each serious habitual  
11 offender and keep the profiles updated.

12       (d) Track the serious habitual offenders through all stages of the  
13 justice system to ensure that the offenders' cases do not become  
14 displaced within the justice system and that offenders are held  
15 accountable to all orders of the court.

16       (2) Each participating law enforcement agency shall do all of the  
17 following:

18       (a) Gather data on identified serious habitual offenders.

19       (b) Compile data into a format usable state-wide by law  
20 enforcement, prosecutors, probation officers, schools, and courts  
21 pursuant to interagency agreement.

22       (c) Regularly update data and disseminate data to criminal justice  
23 system agencies as needed.

24       (d) Establish local policies in cooperation with the prosecutor,  
25 the probation officer, schools, the department of social and health  
26 services, and the juvenile court regarding data collection, arrest, and  
27 detention of serious habitual offenders.

28       (e) Provide support and assistance to other agencies engaged in the  
29 program.

30       (f) Institute procedures that do all of the following:

31       (i) Ensure that all field contacts with identified serious habitual  
32 offenders are documented and reports are routed to the coordinating  
33 agency's program coordinator.

34       (ii) Officers of a participating agency shall make an arrest if an  
35 identified serious habitual offender has committed a violation of law  
36 and probable cause exists to arrest the offender. Law enforcement  
37 officers shall arrest the offender at the time of the offense unless  
38 the arrest, at that time, would adversely affect further investigation  
39 of the offense.

1 (iii) If the identified serious habitual offender has committed any  
2 bookable offense the law enforcement officer shall take the offender to  
3 the juvenile detention facility for booking.

4 (3) Each participating prosecuting attorney's office shall do all  
5 of the following:

6 (a) File charges based on the most serious provable offenses of  
7 each arrest of a serious habitual offender.

8 (b) Use all reasonable prosecutorial efforts to resist the release,  
9 where appropriate, of the serious habitual offender at all stages of  
10 the prosecution.

11 (c) Seek an admission of guilt on all offenses charged in the  
12 informations against the offender. The only cases in which the  
13 prosecutor may request the court to reduce or dismiss the charges are  
14 cases in which the prosecutor decides there is insufficient evidence to  
15 prove the state's case, the testimony of a material witness cannot be  
16 obtained, or a reduction or dismissal will not result in a substantial  
17 change in sentence, or prosecution will not serve the public interest.  
18 In those cases, the prosecutor shall inform the program agencies  
19 stating the specific factual and legal basis for such a disposition.

20 (d) Whenever possible, prosecute all cases involving serious  
21 habitual offenders by having the prosecutor who makes the initial  
22 filing decision or appearance on such a case perform all subsequent  
23 court appearances on that case through its conclusion, including the  
24 disposition phase.

25 (e) Make all reasonable prosecutorial efforts to persuade the court  
26 to impose the most appropriate sentence upon such an offender at the  
27 time of disposition.

28 (f) Make all reasonable prosecutorial efforts to reduce the time  
29 between arrest and disposition of the charge.

30 (g) Act as a liaison with the court and other criminal justice  
31 agencies to establish local policies regarding the program and to  
32 ensure interagency cooperation in the planning and implementation of  
33 the program.

34 (h) Provide support and assistance to other agencies engaged in the  
35 program.

36 (4) Each participating juvenile probation department shall do all  
37 of the following:

38 (a) Cooperate in gathering data for use by all participating  
39 agencies pursuant to interagency agreement.

1 (b) Give priority to detaining serious habitual offenders in  
2 custody who lack proper and effective parental care and control and who  
3 have no one willing to assume or capable of assuming the parental role  
4 and the serious habitual offender is serving a sentence, on bail, or in  
5 violation of a court order.

6 (c) Consider the data relating to serious habitual offenders when  
7 making all decisions regarding the identified individual and include  
8 relevant data in written reports to the court.

9 (d) File information and petitions for warrants or reviews on  
10 violations of probation with the court immediately.

11 (e) Establish local policies in cooperation with law enforcement  
12 and the prosecuting attorney, schools, and the juvenile court regarding  
13 the program and provide support and assistance to other agencies  
14 engaged in the program.

15 (5) School districts shall do all of the following:

16 (a) Cooperate in providing data on students identified by  
17 definition of this chapter as serious habitual offenders, for profiling  
18 by participating agencies pursuant to interagency agreement. Such data  
19 shall include but not be limited to past and current accounts of  
20 truancy, disruptive behavior, disciplinary actions, and suspension or  
21 expulsion history.

22 (b) Report all crimes that are committed on campus by serious  
23 habitual offenders to law enforcement.

24 (c) Report all violations of probation committed on campus by  
25 serious habitual offenders to the probation officer or program  
26 coordinator.

27 (d) Provide educational supervision and social or educational  
28 services appropriate to serious habitual offenders attending schools.

29 (e) Establish local policies in cooperation with law enforcement,  
30 the prosecuting attorney, the probation department, and the juvenile  
31 court regarding the program and provide support and assistance to other  
32 agencies engaged in the program.

33 (6) The department of social and health services shall do all of  
34 the following:

35 (a) Coordinate with participating agencies under this chapter per  
36 interagency agreement to identify serious habitual offenders.

37 (b) Cooperate in providing data on juveniles identified by this  
38 chapter as serious habitual offenders for profiling by participating  
39 agencies pursuant to interagency agreement. Such data shall include,

1 but not be limited to, child protective services reports involving the  
2 serious habitual offender, contacts, state or county-funded  
3 intelligence and psychological evaluations, and group home placement  
4 behavior reports.

5 (7) The participating funded programs shall submit to the  
6 department of community, trade, and economic development an annual  
7 written report regarding achievement of program goals. The department  
8 of community, trade, and economic development shall then submit to the  
9 legislature a written summary of the reports. The reports,  
10 individually and collectively shall do all of the following:

11 (a) Document the amount of serious crime committed by a relatively  
12 small number of serious habitual offenders.

13 (b) Provide statistical documentation regarding the total number of  
14 juveniles in the program, the types of offenses committed, the manner  
15 in which cases are disposed, and a statistical profile of the average  
16 juvenile who qualifies for the program.

17 (c) Evaluate program costs.

18 (d) Review new operational and organizational techniques used in  
19 gathering and disseminating information, and in prosecution and in  
20 monitoring and supervising serious habitual offenders.

21 (e) Compare this program and its effectiveness with the techniques  
22 and methods used prior to the implementation of the program.

23 NEW SECTION. **Sec. 5.** The participating law enforcement agency  
24 charged with the compilation of the data relating to serious habitual  
25 offenders may inspect juvenile court records, probation department  
26 records, division of juvenile rehabilitation records, prosecuting  
27 attorney records, school records, and law enforcement records and  
28 compile such records into the format used by all participating  
29 agencies.

30 NEW SECTION. **Sec. 6.** All participating agencies shall meet no  
31 less than once each month to plan, implement, and refine the operation  
32 of the program and to exchange information about individuals subject to  
33 the program or other related topics.

34 NEW SECTION. **Sec. 7.** Law enforcement agencies and prosecuting  
35 attorneys participating in programs pursuant to this chapter shall  
36 adopt procedures to require a check of juvenile criminal history of all

1 adults whose cases are presented to the prosecuting attorney's office  
2 for filing. The juvenile criminal history shall be considered by the  
3 prosecuting attorney in the charging decision and establishing the  
4 prosecuting attorney's position on the appropriate plea and sentence.

5 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act shall  
6 constitute a new chapter in Title 13 RCW.

7 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this  
8 act, referencing this act by bill number, is not provided by July 1,  
9 1994, in the omnibus appropriations act, this act shall be null and  
10 void.

11 NEW SECTION. **Sec. 10.** This act shall take effect July 1, 1994.

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