

SENATE BILL REPORT

E2SHB 2217

As Reported By Senate Committee On:
Human Services & Corrections, February 23, 1996

Title: An act relating to at-risk youth.

Brief Description: Changing provisions for at-risk youth.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Carrell, Mitchell, Thompson, Cooke, Boldt, Backlund and Johnson).

Brief History:

Committee Activity: Human Services & Corrections: 2/21/96, 2/23/96 [DPA, DNPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Franklin, Vice Chair; Long, Prentice, Schow, Smith, Strannigan and Zarelli.

Minority Report: Do not pass as amended.

Signed by Senators Kohl and Thibaudeau.

Staff: Richard Rodger (786-7461)

Background: During the 1995 session, the Legislature passed a comprehensive act, known as the Becca Bill, addressing concerns about at-risk and runaway youth. The Becca Bill dealt with four main subject areas including runaway youth, alternative placements for youth, chemical dependency and mental health treatment for minors, and students who are truant.

The goal of the legislation was to provide increased protection for children who engage in harmful acts or behaviors, and to give parents, Department of Social and Health Services (DSHS), schools, courts, and law enforcement additional tools to help children.

The Governor vetoed several provisions of the Becca Bill related to crisis residential centers, criminalization of harboring a minor, treatment for habitual runaways, parental notification requirements for chemical dependency, mental health treatment providers, and school personnel.

DSHS was given the responsibility of implementing most of the provisions of the Becca Bill. The Secretary of DSHS has recommended several technical and clarifying amendments which are intended to improve implementation and operation of the act.

Summary of Amended Bill: The court is authorized to place a child in need of services or an at-risk youth in a staff secure treatment facility, which cannot include a CRC. Whenever a person working for a licensed child serving agency shelters a minor without the parents'

consent for more than eight hours, a licensing violation of the sheltering notification requirement is imputed to the agency. Violation of the sheltering notification requirement is a misdemeanor for other persons.

School personnel must provide parents with notice within 48 hours when they contact an inpatient treatment facility for the purpose of referring their child for treatment. Mental health care providers must provide parents with notice of requests for treatment of children 13 or older within seven days for outpatient treatment. Chemical dependency providers must first obtain a child's consent before providing notice to the child's parents, unless the child does not possess the capacity to give consent.

Police officers are required to pick up runaway children who are in violation of a dependency order. An officer must take a child to a detention facility when the officer knows the child is subject to a detention order. When a child is taken to a CRC by a police officer, the center must provide DSHS with a copy of the officer's report. A police officer shall transport a child to a home of a family member, responsible adult, a CRC, or youth shelter, located within a reasonable distance of the parent's home. Police officers' immunity is clarified.

DSHS must make a good faith attempt to notify parents when it receives reports from persons or entities providing unauthorized shelter and offers reunification services to the parent. CRC administrators must notify the department when a child is placed at the center. The police officer may release an out-of-state child to the department and may no longer release the child to a "responsible adult." The department or a supervising agency may remove a child from a CRC after the first 24 hours, but only after considering the transfer criteria.

The CRC administration must inform the parent and child of the right to obtain a mental health or chemical dependency evaluation and of the right to request treatment for behavioral difficulties in a staff secure facility.

The department's coordination of filing a child in need of services (CHINS) or dependency petitions is clarified. CHINS petitions filed by the parent or child must be filed in the county where the parent resides. The court must notify the department of any CHINS petition filed by the child or a parent.

CHINS and at-risk youth (ARY) fact-findings hearings must be held within five calendar days, unless the last day falls on a Saturday, Sunday, or holiday, in which case the hearing is on the preceding judicial day. The hearing is within ten days if the child is at home or in an out-of-home placement. The court may continue the placement of a child at a CRC if space is available. Parental notification of rights is advanced from the disposition hearing to the fact-finding hearing.

The court may, in a CHINS proceeding, order the department to submit a dispositional plan on the needs of the child. Copies of the plan must be provided to the parents and child. The plan may include recommendations concerning the parents if the petition meets a higher standard of proof. The court is required to provide a written statement of why a CHINS petition is granted or denied. The court's contempt powers for violation of placement orders is clarified.

It is clarified that truancy petitions are civil actions.

Minors over age 13 are allowed to consent to chemical dependency inpatient treatment under limited circumstances. Parental permission for treatment of children under 13 is clarified. The department is allowed access to mental health records of children who are admitted to private facilities upon the application of their parents.

The department must, subject to funding, contract with private vendors for transitional living programs for dependent youth on an emancipation track consistent with their permanency plan.

Amended Bill Compared to Substitute Bill: The striking amendment makes the following changes:

CRCs are excluded from the facilities to which a court may order a child with behavioral difficulties.

School personnel notify parents when they contact an inpatient treatment facility for the purpose of referring a student.

The duty of a police officer to transport a child is changed from a "reasonable proximity officer's location" standard to "within reasonable distance of the parent's home." An order of priority for locations to which the officer must take the child if the parents and CRC are not available is established. The officer is required to notify the department immediately if no placement can be made.

Changes from "reasonable" to "good faith" as the standard the department must use in attempting to notify the parent of a child's location in a shelter. When notifying the parent DSHS must offer reunification services.

Changes from "next judicial day" to the "preceding judicial day" when the fact-finding hearing in a CHINS and ARY petitions must be heard and the last calendar day is on a Saturday, Sunday or holiday. Courts may have an additional five days for the fact-finding hearing for children who live at home or in an approved out-of-home placement.

The court may request DSHS to prepare a CHINS dispositional plans addressing the needs of parents only under the "clear, cogent, and convincing" standard of proof.

It is clarified that a child 13-18 who meets the CHINS criteria, where a parent is absent or dysfunctional, can consent for himself or herself to chemical dependency inpatient treatment. Parental notification for chemical dependency outpatient treatment for minors 13 or older is required within seven days if the minor consents to the notice or the minor is incapacitated. Identifying information about the program must be included in the notice.

Parents receive notice of mental health outpatient treatment, for minors 13 or older, within seven days. The provider may defer notice if there are allegations of abuse. The provider must notify the department of the allegation and has to provide notice if the department determines the allegation is not valid.

DSHS must report the number of times it declined to accept a runaway from a police officer, and times an officer released a child without placing him or her.

Language is added to declare the Legislature's intent that children at CRCs have an appropriate placement upon their departure from the CRC.

Transitional living programs are restricted to youth being assisted by the department to achieve emancipation as part of a dependency/permanency plan.

Technical and clarifying amendments are made to various sections.

The following provisions were removed from E2SHB: (1) The provision relating to parental notice, for chemical dependency inpatient treatment of minors, which conflicted with current state law requiring parental consent for inpatient treatment. (2) The prohibition on parental pay, if notice of all chemical dependency treatment not received within seven days, which conflicted with current state law prohibiting parental payment unless the parent consented to the treatment. (3) Parental notice for mental health inpatient treatment required within 48 hours, as current law requires notice within 24 hours. (4) Provisions are removed limiting payment of insurance claims for treatment of minors for chemical dependency when parents are not notified of the treatment, as the provision conflicts with the state policy of mandating those benefits in insurance policies. (5) Intent language stating that treatment for behavioral disorders shall be only by court-order.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill continues the work started last year in the Becca Bill. We should continue to provide more rights for parents to assist them in helping their children. Substantial progress has been made in dealing with the Governor's concerns as outlined in last year's veto message.

Testimony Against: The provisions limiting the use of insurance for treatment cost raise several concerns (e.g., How will notice be transmitted? Who does notice go to? How do you deal with divorced parents?). This provision is contrary to the current state policy of mandating this benefit.

The notice provisions for chemical dependency and mental health treatment will have a chilling effect on children who need treatment.

Testified: Jennifer Strus, DSHS (concerns); Mary Clogston, Office of the Insurance Commissioner (concerns); Seth Dawson, Common Ground for Children (pro); Steve Norsen, WA Council of Community Mental Health Centers (pro); Richard Warner, Citizens Commission on Human Rights (con); Barry Anton, WA State Psychological Assoc. (con); Mary Cox, CCHR (con); Rachael Myers, National Assn. of Social Workers, WA State (concerns).