

SENATE BILL REPORT

SB 5491

As Reported By Senate Committee On:
Ways & Means, March 3, 1995

Title: An act relating to juvenile offenders.

Brief Description: Modifying juvenile disposition.

Sponsors: Senators Smith, Oke, Wood, Winsley, Hale, Prince, Long and Schow; by request of Governor Lowry and Attorney General.

Brief History:

Committee Activity: Law & Justice: 2/2/95, 2/15/95 [DPS-WM].
Ways & Means: 3/2/95, 3/3/95 [DP2S].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5491 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Smith, Chair; C. Anderson, Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Rinehart, Roach and Schow.

Staff: Lidia Mori (786-7755)

Background: The Council on Families, Youth and Justice was established in June 1994 by Governor Lowry, with Attorney General Christine Gregoire. The council was directed to review the state's juvenile laws and recommend how to improve the juvenile system. The council was divided into four work groups. The Juvenile Offenders Work Group addressed issues including sentencing, rehabilitation, parental involvement in the court process, racial disproportionality, and chemically dependent offenders.

Summary of Substitute Bill: The classification of a juvenile as a "serious offender" is based solely on the severity of the offense. The disposition range for a minor/first offender with from 1 to 109 points is 0 to 12 months community supervision, and/or 0 to 150 hours of community service, and/or 0 to \$100 fine. The disposition range for a middle offender with from 1 to 109 points is 0 to 12 months community supervision, and/or 0 to 150 hours of community service, and/or a fine of 0 to \$100 and/or 0 to 30 days confinement. The mandatory minimum sentence for rape of a child in the first degree is 52 to 65 weeks, and for child molestation in the first degree it is 21 to 28 weeks.

A juvenile's parent, guardian, or custodian is given notice of detention and dispositional hearings and is required to attend. Contempt of court may be pursued if the person fails to attend without good reason. Courts hold hearings during nonstandard hours, if possible, and take other actions necessary to facilitate parental participation. A parent cannot be examined as to a communication made by the parent's minor child to the child's attorney after the filing of juvenile or adult criminal charges.

The juvenile disposition standards commission has 13 members, and on June 30, 1997, its powers and duties are transferred to the Sentencing Guidelines Commission.

A court may order an examination by a chemical dependency counselor for a middle offender with 110 points or more who is found to have committed a offense that is not a violent or sex offense. If the court determines that the chemical dependent disposition alternative is appropriate, it imposes the new standard range for the offense, suspends it, places the offender on community supervision for up to one year and requires outpatient or inpatient drug and/or alcohol treatment. The court may impose additional conditions, including requiring the offender to remain within prescribed geographical boundaries, payment of restitution, or performance of community service.

The Department of Corrections and the Department of Social and Health Services must develop recommendations for the creation of a youthful offender sentencing option by December 1, 1995.

Substitute Bill Compared to Original Bill: If a court determines that the chemical dependent disposition alternative is appropriate, it is required to impose the standard range for the offense, suspend it, place the offender on community supervision for up to one year and require outpatient or inpatient drug/or alcohol treatment.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The changes in the minor or first offender disposition standards will allow for "pre-emptive strikes" when necessary to prevent recidivism. There should be language in the bill requiring an analysis of the impact of this legislation on people of color. It is important to provide adequate funding for the changes that will occur from this legislation.

Testimony Against: The bill should provide assistance for those offenders and parents of offenders who face language and transportation barriers. Parents should not be required to attend juvenile hearings.

Testified: James Kelly, WA State Commission on African American Affairs (pro in part); Paola Maranan, Children's Alliance (pro in part); Greg Hubbard, Kitsap County Prosecuting Attorney (pro); Sid Sidorowicz, Juvenile Rehabilitation Administration (pro); Margaret Martinez, Juvenile Justice Advisory Committee (pro in part); John Steiger, Sentencing Guidelines Commission (pro).

SENATE COMMITTEE ON WAYS & MEANS

Staff: Tim Yowell (786-7715)

Majority Report: That Second Substitute Senate Bill No. 5491 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Gaspard, Hargrove, Hochstatter, Johnson, Long, McDonald, Moyer, Roach, Sheldon, Spanel, Strannigan, West, Winsley and Wojahn.

Second Substitute Bill Compared to Substitute Bill: Juveniles age 14 and younger convicted of a serious offense continue to be eligible for community sentences on a case-by-case basis. There must be evidence of a chemical dependency before an assessment is ordered. Defendants must pay for the assessment, unless they are indigent and have no insurance, in which case the state will pay.

Testimony For: This legislation follows recommendations of a council appointed by Governor Lowry. It is particularly important to increase parole conditions and to provide better transition services for juveniles returning to the community because that will result in a better return on the funds the state has invested in institutional treatment.

Testimony Against: We oppose the age change in the definition of serious offenders because it removes judicial discretion to sentence youth to community supervision on a case-by-case basis. The \$2 million this would cost could be better spent in other ways.

Testified: Sid Sidorowicz; Margaret Casey; Paola Maranan.