

SENATE BILL REPORT

SB 6424

As of January 26, 1998

Title: An act relating to the placement of children under the jurisdiction of the department of social and health services.

Brief Description: Modifying provisions relating to children placed in community facilities.

Sponsors: Senators Haugen, McAuliffe, Prentice, Kline, Goings, Fairley and Spanel.

Brief History:

Committee Activity: Human Services & Corrections: 1/27/98.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Fara Daun (786-7459)

Background: In September of 1997, a 17-year-old resident in a Juvenile Rehabilitation Administration (JRA) community placement group home walked away from his job and raped and murdered a 12-year-old babysitter during a burglary. The subsequent investigation revealed that JRA did not have vital school record information and information regarding the juvenile's previous law enforcement encounters.

The federal Family Education Rights and Privacy Act (FERPA) limits the transfer of education records to transfers with the prior notice and consent of both juveniles and their parents. FERPA provides two exceptions for transfers for law enforcement purposes: (1) Records may be transferred prior to trial in order to effectively serve the juvenile. These transfers generally require prior notification to the juvenile and his or her parents; and (2) After conviction, records may be transferred without consent only by a subpoena containing a nondisclosure order.

Current Washington statutes do not reflect the most recent changes in FERPA and may provide conflicting direction to the schools. JRA reports that it has been difficult to obtain complete, timely, records necessary for conducting risk assessment for juveniles placed with the agency.

In addition to risk assessment concerns, other concerns have been raised related to the placement of juveniles in the community. These include: An inadequate distinction between group homes for children with and children without criminal convictions; inadequate employee screening; inadequate night staffing at some facilities; inconsistent communication with local law enforcement and JRA; inconsistent monitoring of juveniles in school and work placements; and inadequate community participation and information.

Summary of Bill: The Department of Social and Health Services (DSHS) must establish a process for community involvement in the siting of JRA group homes through mandated

public hearings. This process generally follows the siting process for Department of Corrections facilities.

JRA and the service providers must create community placement oversight committees. The committees include representatives of law enforcement, the local school district, and the public. The committees review and approve placement of juveniles in the community facility.

DSHS must adopt a policy for the common use of group homes for JRA and non-JRA children. DSHS must not place juveniles who commit any class A felony with non-JRA children.

DSHS must maintain a staffed 24-hour toll-free phone line for reporting a juvenile's violations of community placement conditions. The phone number must be distributed to the persons most likely to have contact or supervisory authority over any juvenile. It must also be included in all service provider contracts.

Each service provider must report to DSHS every known violation or infraction a juvenile offender commits within two hours of learning of it. DSHS must document reported violations. Service providers that fail to report juveniles' known violations are subject to both monetary penalties and contract sanctions or termination. DSHS must give great weight to a service provider's record of infractions and violations in any execution, renewal, or renegotiation of the service provider's contract.

DSHS must return juveniles who commit serious infractions or serious violations of their placement conditions to a secure institution for at least 50 percent of the sentence remaining at the time of the infraction. All criminal offenses and all drug or alcohol violations are defined as serious violations.

Any juvenile placed in a school, work, or volunteer situation must be subject to monitoring agreements. These agreements acknowledge the juvenile's status as an offender, provide for notification when any condition is breached, and provide for accountability checks and performance reviews of the juvenile by the JRA group home. The agreements must be in writing and signed by the juvenile, the employer, supervisor, or school, JRA, and the contracting service provider. Both DSHS and the service providers must keep a copy of the executed agreements.

Juveniles are not eligible for placement in a community facility until they have spent at least 10 percent of their sentences, but not less than 30 days, in a secure institution.

Eligible juveniles may not be placed in a JRA group home unless:

- (a) The juvenile's school records have been received and reviewed in conjunction with other information to conduct a risk assessment and security classification and the risk assessment, including a determination of drug and alcohol abuse, is complete;
- (b) The completed risk assessment indicates that the juvenile will not pose a high risk to public safety;
- (c) The community placement oversight committee has reviewed and approved the placement; and

(d) Local law enforcement has been properly notified.

The department must request education records for first-time offenders after conviction by a subpoena. The prosecutor or local probation department must request records for all juveniles with one or more previous convictions prior to trial.

Employees and volunteers must pass background checks. Persons who have committed sex offenses or violent offenses are prospectively disqualified from positions in which they may have regular access to JRA children. Failure to report a post-employment conviction constitutes misconduct.

Counties are permitted to levy an excise tax in unincorporated areas on retail sales of utilities. Revenues generated by the tax must be expended to supplement existing funds for activities which substantially assist the criminal justice system.

A joint legislative task force conducts a study of JRA and makes recommendations. The study must include an evaluation of the: (a) infraction reporting procedures, policies, and documentation; (b) personnel hiring reviews and procedures; (c) security levels, policies, and procedures at the community facilities; (d) procedures regarding visitors and escapes; and (e) policies and procedures for random security checks of juveniles when not at the community facility.

Appropriation: None.

Fiscal Note: Requested on January 19, 1998.

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