
**Juvenile Justice & Family Law
Committee**

ESSB 6472

Brief Description: Revising provisions relating to victims of crime.

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, McAuliffe, Esser, Regala, Stevens and Kohl-Welles; by request of Department of Community, Trade, and Economic Development).

Brief Summary of Engrossed Substitute Bill

- Adds two definitions of "victim" to the statutes pertaining to juvenile offenders.
- Requires the juvenile justice system to recognize the rights of victims and to provide notice and an opportunity to participate in the legal process.
- Makes changes to restitution requirements for diversions and adjudications.

Hearing Date: 2/24/04

Staff: Sonja Hallum (786-7092).

Background:

The Washington Legislature has recognized rights of crime victims both statutorily and through the State Constitution. Victims are recognized to have the right to respect, the right to be informed, the right to be present, and the right to be heard, as well as many other specifically enumerated rights. Currently, the statutes relating to the juvenile justice system do not specifically incorporate the provisions relating to victim rights.

The only definition of victim in the juvenile justice statutes pertains to the definition of a victim for the purposes of the Special Sex Offender Disposition Alternative (SSODA).

The Juvenile Justice Act establishes a system for juvenile offenders. The system allows first-time offenders to avoid the formal court process by entering into a diversion agreement. Under a diversion agreement, the juvenile may be required to pay restitution for damages, complete community restitution, attend counseling or other informational sessions, pay a fine, follow rules regarding curfew and other rules regarding contact with victims. The diversion agreement may continue for a period of up to six months. If the restitution obligation is not completed within six months, the agreement may be extended for a maximum of six additional months for payment of

restitution. If there is restitution remaining at the end of the 12 month period, the statute permits the juvenile to request the court to enter an order establishing the amount of restitution still owed to the victim.

The juvenile justice system also establishes procedures for juveniles who are prosecuted through the formal court system. If the offender is adjudicated of a juvenile offense the court will enter a disposition order establishing his or her sentence. If the offense is a sex offense the offender may be sentenced to the SSODA program if he or she meets the qualifications for the program. If the offender enters the program the court will set out treatment requirements. One such requirement the court may order is that the offender is not permitted to attend the same school as the victim or the victim's siblings.

The disposition order may also establish restitution the offender is required to pay the victim of the offense. Restitution is allowed for a variety of losses to the victim including medical expenses, the value of property, lost wages, and costs of counseling reasonably related to the offense if the offense is a sex offense. Once a restitution order is entered, the offender may petition the court for a modification of the restitution order.

The disposition may impose monetary penalties on the offender. Monetary penalties are financial assessments and do not include restitution to the victim. The offender may petition the court to convert the monetary penalties into community restitution.

Summary of Bill:

Definitions:

Two additional definitions of victim are added to the statutes dealing with juvenile offenders. In addition to the definition of a victim for the purposes of a sex offense, a definition is added to the definition section at the beginning of the chapter, and a slightly different definition is added to the Chemical Dependency Disposition Alternative statute.

All three definitions consider a victim to include a person who has sustained emotional, psychological, physical, or financial injury as a direct result or consequence of the crime charged. The difference between the three definitions is in when parents or guardians may be considered victims.

The only definition in the current law is in reference to who may be considered a victim of a sex offense and that definition allows parents or guardians of a victim who is a minor child to be considered a victim unless the parent is the perpetrator. The bill creates a second definition of victim by adding language to the definition section to allow a parent or guardian to be considered a victim if the victim is a minor child or is incapacitated or incompetent. Finally, a third definition is created in the statute dealing with the Chemical Dependency Disposition Alternative which allows a parent or guardian to be considered a victim if the victim is a minor child or is incapacitated, incompetent, disabled, or deceased.

Victim Rights:

The intent section of the Juvenile Justice Act is modified to specify that the juvenile justice system is to be responsible, accountable and respond to the needs of victims in addition to youthful offenders. Additionally, the purposes of the system must include providing for the opportunity

for victims to participate in court proceedings and to ensure the Victim Bill of Rights in the Washington Constitution is observed.

The statute relating to the rights of victims, and the statute relating to child victims and witnesses, are modified to specify that the provisions of those statutes apply to any criminal court or juvenile court proceeding. Additionally, the victim of any violent or sex crime is given the right to have any support person of the victim's choosing present at any prosecutorial or defense interviews.

Diversion:

The diversion agreement must contain a provision for restitution that is limited to the amount of easily ascertainable loss incurred by any victim. Additionally, the victim must be provided with notice of the diversion process and the opportunity to offer a victim impact letter and restitution claim form.

The statute permitting the juvenile to appear in court to have an order entered establishing an amount still owing to the victim at the end of the diversion period is modified. The court is given the ability to relieve the juvenile of the requirement to pay full or partial restitution and may order community restitution in lieu of the monetary restitution.

Disposition:

The statute relating to the SSODA program is changed to clarify that the treatment plan for the sex offender must prohibit the sex offender from attending the same school as the victim or the victim's siblings.

If the court orders the offender to pay a monetary penalty, the court may only convert the monetary penalty to community restitution if the penalty is not a crime victim penalty assessment.

Restitution:

In addition to the changes in the restitution required in diversion cases, restitution is permitted in all cases for all costs of counseling for a victim regardless of the nature of the offense so long as the counseling is reasonably related to the offense.

The ability of the offender to modify the restitution order is changed to permit modification of the payment schedule, but not the amount of the order.

Miscellaneous Provisions:

The provision requiring probation officers to prepare predisposition reports for dependency proceedings is removed.

The effective date of the act is July 1, 2004.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2004.