

SENATE BILL REPORT

ESHB 2906

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 25, 2016

Title: An act relating to strengthening opportunities for the rehabilitation and reintegration of juvenile offenders.

Brief Description: Strengthening opportunities for the rehabilitation and reintegration of juvenile offenders.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Stambaugh, Kagi, Magendanz, Tharinger, Ortiz-Self, Frame, Goodman and Ormsby).

Brief History: Passed House: 2/15/16, 85-12.

Committee Activity: Human Services, Mental Health & Housing: 2/23/16, 2/25/16 [DPA-WM, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Kevin Black (786-7747)

Background: A deferred disposition is a form of resolution in juvenile court in which, upon motion by the juvenile, the court continues the trial for up to one year, during which time the juvenile is placed on community supervision and ordered to abide by specified conditions, which may include assessment and treatment for mental health or substance abuse. The court may extend supervision for up to one additional year for good cause. The juvenile must stipulate to the admissibility of facts contained in a police report and waive the juvenile's trial rights. A prosecutor or community supervision counselor may request a revocation hearing based on lack of compliance. A juvenile is eligible for a deferred disposition unless the juvenile:

- is charged with a sex or violent offense;

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- has a criminal history which includes any felony;
- has a prior deferred disposition or deferred adjudication; or
- has two or more adjudications.

The court may grant a deferred disposition upon motion by the juvenile if it finds that the offender and the community will benefit from the disposition. At the end of the supervision period, the court must dismiss the deferred disposition if the juvenile has completed the terms of supervision, including making a good faith effort to pay restitution.

Juveniles who are adjudicated in juvenile court for the crime of taking a motor vehicle without permission in the first degree or second degree, theft of a motor vehicle, or possession of a stolen vehicle are required to pay additional mandatory fines which cannot be waived by the court of \$150, \$200, or \$400 depending on the offense and the juvenile's prior criminal history score. The juvenile may also be subjected to electronic monitoring if available and ordered to undergo other minimum additional sanctions including community restitution hours, community supervision, and detention. A three-year analysis of these mandatory fine provisions by the Administrative Office of the Courts indicates an annual average of \$493,483 in fines ordered and \$34,925 paid.

If a juvenile is found by juvenile court to have committed an offense while armed with a firearm or a drug or alcohol offense, the court must notify the Department of Licensing (DOL) to revoke the juvenile's privilege to drive within 24 hours. If the offense is the juvenile's first offense, the juvenile may petition juvenile court to reinstate the juvenile's driving privilege after 90 days, or 90 days after the juvenile turns 16, whichever is later. If the offense is the juvenile's second or subsequent offense, the juvenile may petition juvenile court to reinstate the juvenile's driving privileges after one year, or when the juvenile turns 17, whichever is later. If the juvenile enters a diversion agreement for one of these offenses, the court must notify DOL to revoke the juvenile's privilege to drive, and notify DOL to reinstate the privilege when the juvenile has completed the diversion agreement.

Restorative justice is defined in RCW to mean practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members.

Summary of Bill (Recommended Amendments): The court must grant a deferred disposition to a juvenile who is eligible for the agreement upon a motion by the juvenile. The court may deny a motion to grant a deferred disposition if the juvenile is charged with animal cruelty in the first degree, but must consider the community benefit before determining whether to grant the deferred disposition.

Upon receiving an offense report, the prosecuting attorney may choose to not file a criminal referral as a domestic violence offense if the offense was committed against a sibling, parent, stepparent, or grandparent.

Mandatory fines ranging from \$150-\$400 are eliminated for the crimes of taking a motor vehicle without permission in the first degree or second degree, theft of a motor vehicle, and

possession of a stolen vehicle. Language allowing the juvenile to be subjected to electronic monitoring where available is eliminated in some instances. A mandatory additional sanction of 45 hours of community restitution for juveniles with a criminal history score of zero to one half who are adjudicated for the crimes of theft of a motor vehicle or possession of a stolen vehicle is changed to a minimum of three days home confinement and a maximum of 40 hours of community restitution.

A requirement is eliminated for the juvenile court to notify DOL to revoke a juvenile's privilege to drive following an adjudication or diversion agreement for the juvenile's first offense while armed with a firearm, first offense of unlawful possession of a firearm, or first offense relating to alcohol, controlled substances, or imitation controlled substances.

The definition of community-based rehabilitation, which is a category of requirements which may be incorporated into a juvenile's community supervision order, is expanded to include restorative justice programs.

It is specified that one purpose of the Juvenile Justice Act is to provide for the rehabilitation and reintegration of juvenile offenders.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Amendments): Language is removed allowing a judge to impose optional special fines on a juvenile adjudicated for an offense involving a motor vehicle, limiting a prosecutor's discretion to choose not to file an information as a domestic violence offense if the offense was committed against a sibling, parent, stepparent, or grandparent to situations where the offense was committed by a juvenile, and allowing a prosecutor to consider whether the victim requests that the information not be filed as a domestic violence offense or whether the victim does not object to the same.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: People are passionate about making sure our juveniles are successful when they reintegrate into the community. If a domestic violence tag attaches to a juvenile, it can prevent them from going into the military. We would like an amendment to the language concerning fines. This bill represents a collaboration between prosecutors and defense attorneys. This collaboration will help the state Office of Public Defense to develop a plan to provide quality representation to youth in the juvenile justice system. The fiscal note from DOL contains errors. Removing the impediment of the license revocation will help youth engage in treatment and diversion. The majority of domestic violence in the home involving young people does not reflect the way the tag was intended to be used.

OTHER: Please amend the language added in the House concerning fines.

Persons Testifying: PRO: Representative Stambaugh, prime sponsor; Thomas O'Ban, Columbia Legal Services; Wayne Graham, WA Assn. of Prosecuting Attorneys; George Yeannakis, Office of Public Defense.

OTHER: James McMahan, WA Assn. of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: Tom Parker, Superior Court Judges Assn.