

HOUSE BILL REPORT

HB 1690

*As Reported By House Committee on:
Judiciary
Appropriations*

Title: An act relating to disposition and sentencing of juvenile offenders.

Brief Description: Changing juvenile disposition standards.

Sponsor(s): Representatives Riley, Ludwig and Scott.

Brief History:

Reported by House Committee on:
Judiciary, February 6, 1991, DP;
Appropriations, March 5, 1991, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass.* Signed by 18 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

Staff: Pat Shelledy (786-7149).

Background: Introduction. The Juvenile Justice Act sentencing scheme is a complex sentencing structure that determines sentencing ranges for juvenile offenders based upon a variety of factors. The factors include the following: the seriousness of the offense, the juvenile's age, the offender's criminal history, and the time period that has elapsed between the current offense and the last offense the juvenile committed. When the Legislature changes the seriousness of an offense as applied to adults, the Juvenile Disposition Standards Commission reviews the change and makes recommendations for changing the sentencing structure for juveniles adjudicated of those offenses.

1. Offense categories. Various offenses are labeled by 10 seriousness categories ranging from the least serious "E" to the most serious "A+." The letter identification does not necessarily relate to whether the offense is an "A, B, or C" felony. However, in general, the letter labels are roughly

equivalent to the class of the offense. (Murder in the first degree is a class A felony and has a seriousness level label of A+.)

2. Juvenile offender minor/first category. Juvenile offenders are divided into three categories: minor/first offenders, middle offenders, and serious offenders. An offender falls into a category depending, again, on the various factors identified above. Certain offenses considered too serious to be in the minor/first offender category are excluded regardless of the offender's age or criminal history. Offenses currently designated "B+" or greater offenses are excluded, except possession of an incendiary device, first-degree promoting prostitution, and violation of the Uniform Controlled Substances Act - narcotic sale. The minor/first offender sentencing structure contemplates that minor/first offenders will have a maximum of 110 points. (Points are acquired by consideration of age, seriousness, and recency factors.) But B+ offenses are awarded a minimum of 110 points, and middle offenders with 110 points or more get a sentence of at least eight weeks. Inclusion of those three offenses within the possible minor/first category creates an apparent discrepancy in the sentencing scheme.

3. Prior offense increase factors. Juvenile offenders who commit crimes more frequently receive more "points" than other offenders. The more points an offender has, the greater the sentence range will be. Currently, three time spans determine the number of points. If the offender commits a new offense within 0 to 12 months of the last offense, the points will be higher than an offender who commits the same type of offense within 13 to 24 months of the last offense, which will generate more points than commission of the same type of offense over 25 months from the last offense. (The actual number of points awarded depends upon the seriousness of the offense.)

4. Age categories for determining standard ranges. Currently, six age categories exist that are factors in determining the standard range for offenses of various seriousness levels. The six categories are as follows: 12 and under, 13, 14, 15, 16, and 17. In general, the older the offender is the higher the range, again, depending upon the seriousness of the offense.

5. Penalties for dealing drugs within 1,000 feet of a school ground or school bus stop. Under the adult sentencing scheme, drug offenders who deal drugs within 1,000 feet of a school ground or a school bus stop may receive a sentence enhancement up to double the amount of

the normal sentence. The offense categories for juveniles have not been adjusted accordingly.

Summary of Bill: 1. New schedule of categorizing offenses.

A new system of categorizing offenses under schedule A increases the number of categories from 10 to 13 which allows for more sentencing options. The categories now range from "M1," offenses that are equivalent to misdemeanors, to "A1" which is first-degree murder. The categories are numbered as follows: A1, A2, A3, A4, B1, B2, B3, C1, C2, GM1, GM2, and M1. Two of the three new categories assign a greater number of points for selected offenses that were previously in lower categories.

The three new categories provide greater sentencing options between first- and second-degree murder, in general, more severe sentences for crimes against persons than property, and a more severe penalty for residential burglary than commercial burglary.

2. Deletion of offenses from the minor/first offender category. The following offenses are deleted from consideration of the minor/first offender category: possession of an incendiary device, first-degree promoting prostitution, and violation of the Uniform Controlled Substances Act - narcotic sale. This change corrects the current conflict in the sentencing structure.

3. Reduction in recency categories. The recency categories used in determining the increase factor for sentencing are reduced from three to two categories. The new categories are 0-12 months and 13 or more months from the current offense. This change will reduce sentences for juveniles whose prior offenses were committed between 13 to 24 months prior to the current offenses for which they are being sentenced, because the increase factor will be the increase factor currently used for offenders who committed the current offense 25 or more months after their last offense.

4. Reduction in number of age categories. The current six age categories for determining standard ranges for offenses are reduced to three categories: 13 and under, 14 and 15, and 16 and 17. The change is intended to simplify the sentencing scheme and is not intended to have significant sentencing or bed impacts.

5. Increased penalties for drug dealers who deal near schools. The penalties for dealing drugs within 1,000 feet of a school or school bus stops are increased, but no more than double the typical sentence for drug dealing. For example, the average minimum sentence under the current

scheme is 37 months for a narcotics sale. The proposal would increase the minimum to 60 weeks.

Fiscal Note: Requested January 29, 1991.

Effective Date: The bill contains an emergency clause and takes effect July 1, 1991.

Testimony For: The provisions increase flexibility in sentencing, correct some internal inconsistencies in the code, simplify the code, and increase sentencing ranges for drug offenders who deal near schools, which comports with increases in sentencing for adult drug dealers.

Testimony Against: None.

Witnesses: Jerry Wasson, Director, Division of Juvenile Rehabilitation, and member, Juvenile Disposition Standards Commission (in favor of the bill); and Dr. Robert Crutchfield and John Turner, members, Juvenile Disposition Standards Commission (in favor of the bill).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 25 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Appelwick; Bowman; Braddock; Brekke; Dorn; Ebersole; Ferguson; Fuhrman; Hine; Holland; May; McLean; Peery; Pruitt; Rust; H. Sommers; Sprenkle; Valle; Vance; Wang; and Wineberry.

Minority Report: *Do not pass.* Signed by 5 members: Representatives Morton, Assistant Ranking Minority Member; Belcher; Lisk; Mielke; and Nealey.

Staff: Victor Moore (786-7143).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Judiciary: The substitute bill contains two technical changes. The first removes an erroneous reference to possession of an incendiary device as a class B felony. The second corrects the offense points for a B1 offense by a 16-17 year old offender from 140 to 150.

Fiscal Note: Available.

Effective Date: This bill contains an emergency clause and takes effect July 1, 1991.

Testimony For: Same as before Judiciary Committee, with only qualified support now offered by the Department of Social and Health Services.

Testimony Against: The penalties for certain crimes are inconsistent with public and legislative sentiment towards those crimes.

Witnesses: Jerome Wasson, Division of Juvenile Rehabilitation (supported concepts in the bill, but cannot support bill due to fiscal impacts); and Steve Gregorich, Washington Association of Prosecuting Attorneys (suggested several substantive changes to the bill).