

HOUSE BILL REPORT

HB 2466

*As Reported By House Committee on:
Human Services
Judiciary*

Title: An act relating to recommendations of the juvenile issues task force.

Brief Description: Changing provisions relating to juveniles.

Sponsor(s): Representatives Ebersole, McLean, Leonard, Padden, Appelwick, Wineberry, Basich, Brumsickle, Ludwig, Lisk, Rayburn, Dellwo, Locke, Pruitt, Neher, R. King, Ogden, Anderson, Franklin, G. Fisher, Bray, Bowman, Edmondson, Moyer, Prentice, Spanel, Dorn, Riley, Silver, Heavey, Mielke, H. Myers, Inslee, Brekke, Chandler, Fuhrman, Jacobsen, Vance, Kremen, Hochstatter, Forner, Brough, Broback, Winsley, Ferguson, Wood, Horn, P. Johnson, Jones, Wang, Haugen, Zellinsky, Carlson, Mitchell, Sprenkle, J. Kohl, Valle, O'Brien, May, Roland, Fraser, Hine, Sheldon, Tate and Rasmussen.

Brief History:

Reported by House Committee on:
Human Services, January 29, 1992, DPS;
Judiciary, February 6, 1992, DPS(HS-A JUD).

**HOUSE COMMITTEE ON
HUMAN SERVICES**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 10 members: Representatives Leonard, Chair; Riley, Vice Chair; Winsley, Ranking Minority Member; Tate, Assistant Ranking Minority Member; Anderson; Beck; Hargrove; Hochstatter; R. King; and H. Myers.

Minority Report: *Do not pass.* Signed by 1 member: Representative Brekke.

Staff: David Knutson (786-7146).

Background: The Juvenile Issues Task Force was created by the 1991 Legislature to examine the operation of the 1977 Juvenile Justice Act, the Family Reconciliation Act, 1990 at-risk youth legislation and related issues. The task force was also charged with making recommendations to the

Legislature. It held 16 public hearings around the state to solicit public input. The task force divided its work into three substantive areas: juvenile offenders, families at risk, and involuntary commitment and treatment. In addition to its substantive recommendations, the task force is recommending that it continue for an additional year.

Summary of Substitute Bill:

Juvenile Offenders

The intent and purpose of the state's Juvenile Justice Act is restated to emphasize the equally important policies of rehabilitation, accountability, and flexibility in service delivery, sanctions, and placement options.

The definitions of confinement and community supervision are expanded to provide greater flexibility in sentencing options available to judges. The standard sentencing range for community supervision for all non-committable youth is 0 to 12 months. Sentencing option D is created to allow courts to order evaluation and treatment for substance abuse. Payment for placement under option D is subject to available funds. The standard sentencing ranges for confinement of middle offenders is modified. Juvenile Sentencing Standards Schedule E is added, providing for enhancement of sentences when a deadly weapon was involved in the crime.

Counties are to develop and apply detention intake standards and risk assessment standards to determine the need for detention.

The court will require the appearance of the parents, guardians, or custodians of juveniles before the court for detention, adjudicatory, and disposition hearings. The court is required to consult with the parents, guardian, or custodian of a juvenile offender before disposition of the juvenile's case. The court may require a parent, guardian, or custodian to participate in educational, counseling, or treatment programs.

Diversion agreements may not exceed six months unless an extension is necessary for purposes of restitution. Law enforcement officials or entities do not qualify as diversion units. Diversion is not allowed when a juvenile has previously been committed to a Division of Juvenile Rehabilitation facility, has three previous diversions, or is accused of a class A felony, a class B felony, or a class C felony that is a crime against a person. Diversion units shall: (1) notify victims of crimes against persons or victims whose property has not been recovered of a

diversion; (2) notify such victims how to contact the diversion unit; (3) consult with any victims that contact the unit when assessing the appropriate community service and restitution; and (4) provide qualified interpreters when necessary. Juvenile offenders may be referred to mediation or victim offender reconciliation programs. Diversion agreements may require attendance at up to 10 hours of counseling and/or up to 20 hours of educational programs. Diversion units may refer a juvenile to local treatment programs or the department's family reconciliation services. In the event of noncompliance with a diversion agreement, the unit is to consult with the prosecuting attorney on the appropriate response.

The Department of Social and Health Services (DSHS) is to develop a plan to reduce its reliance on large institutional facilities. The department is also directed to collect data on disparity in the juvenile justice system due to racial, economic, gender or geographic factors and report annually to the Legislature.

The Administrator for the Courts is to develop a curriculum, to be updated yearly, for court personnel and service providers about child development, placement, and treatment resources and about relevant statutes, court rules, and case law.

School districts may exchange information with law enforcement and juvenile court officials to the extent permitted by federal law.

Families at Risk

Schools are required to notify parents after one unexcused absence, and schedule a conference with the parents after two unexcused absences. After five or more unexcused absences, the school may file a truancy petition. Schools will annually notify parents and children of truancy laws. The courts may order alternatives to detention if a child fails to obey a court order to return to school. The superintendent of public instruction is to issue annual reports to the Legislature on school enforcement efforts.

The Department of Social and Health Services will contract with a minimum of 38 crisis residential centers (CRCs). A child is not to remain in a CRC longer than five consecutive days from the date of intake. Only a family reconciliation services supervisor may authorize placement of a child in a CRC. The minimum staffing ratio in regional CRCs is lowered to one staff person per three children.

Children who are inappropriately housed in CRCs are, to the extent possible, to be transferred to residential and treatment services designed to meet their specific needs.

DSHS is to discontinue the practice of having social workers in the Division of Children and Family reconciliation functions except in rural offices where it proves impractical.

A planning, allocation, and service system for at-risk youth, runaways, and families in conflict is to be developed by the Juvenile Issues Task Force.

Involuntary Treatment and Commitment

The purpose of the involuntary treatment statute is clarified to ensure that a continuum of culturally-relevant services are available to both the patients and their families and to ensure that voluntary services are given the highest priority. Additionally, all divisions of the Department of Social and Health Services are required to jointly plan and deliver mental health services to all youth in out-of-home placements.

The Department of Social and Health Services is directed to design and implement the department's services and programs to maximize the state's allocation of federal funds. The department is also directed to encourage the development and expansion of evaluation and treatment facilities by redirecting federal Title XIX funds which are used for out-of-state placements to fund placements within the state.

The department is required to conduct a planning study to assess the residential and treatment needs of a sample of all at-risk youth in their care and the needs of youth for whom an involuntary commitment was denied.

When a youth is not detained for involuntary treatment, the county-designated mental health professionals (CDMHP) and county-designated chemical dependency specialists (CDCDS) are required to: (1) inform the parents of their right to file an at-risk youth petition or an alternative residential placement petition; (2) inform the parents of their right to file a petition to seek a review of the decision not to commit the youth; (3) write a report detailing the reasons a commitment was not authorized; and (4) refer the parents to any other available services.

An appeal process is created to allow parents the right to petition the court for a review of a CDMHP or a CDCDS decision not to detain a youth for involuntary mental health or chemical dependency treatment.

Continuation of Task Force

The composition of the task force is modified and the life of the task force is extended for one year. The final report on the DSHS study of racial disproportionality is to be submitted by December 1, 1992.

Substitute Bill Compared to Original Bill: The plan to reduce reliance on large institutional facilities to house juvenile offenders will provide for the transfer of up to 240 beds from five existing institutions to new regional facilities. The Division of Juvenile Rehabilitation will seek to maximize the use of federal funding for children in the juvenile justice system. Schools will not be required to take action after a child misses school for a specific number of times. Two levels of crisis residential centers will operate group home CRCs and foster home CRCs. Family reconciliation service supervisors will ensure that law enforcement officers will be able to place runaways in crisis residential centers. Mental health workers will take more information into account when deciding if a child should be involuntarily committed for treatment.

Fiscal Note: Requested January 24, 1992.

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

Testimony For: The recommendations of the Juvenile Issues Task Force, contained in House Bill 2466, address many of the most serious problems facing children and families. Children need more treatment services for alcohol and drug abuse. Juvenile offenders should be held accountable for their actions, but they should also receive counseling and treatment services. Runaways should be picked up by law enforcement officers and returned to their parents or taken to crisis residential centers. Additional family counseling services should be available to keep families together or reunite families when children run away. There are insufficient beds to serve children who require inpatient alcohol and drug treatment. Judges need additional discretion when sentencing juvenile offenders to confinement. Prevention and early intervention services should be expanded to serve the entire at-risk youth population.

Testimony Against: None.

Witnesses: Representative Ebersole, Prime Sponsor; Don Knapp, Foster Parents of Washington; Robert Hunner, Governor's Juvenile Justice Advisory Committee; Linda Grant, Alcoholism and Addiction Programs; John Kvamme, Tacoma

Schools; Bob Naon, Prosecuting Attorneys Association; Jerry Sheehan, American Civil Liberties Union; Julie Bonsteel, Federation of Residential Care Providers; Dave Okimoto, Juvenile Issues Task Force; Kurt Sharar, Association of Counties; Larry Fehr, Council on Crime and Delinquency; Pete Vander Wegen, Wapato Schools; and Dick Thompson, Department of Social and Health Services.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill by Committee on Human Services be substituted therefor and the substitute bill as amended by Committee on Judiciary do pass.* Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Staff: Pat Shelledy (786-7149).

Summary of Recommendation of Committee on Judiciary Compared to Recommendation of Committee on Human Services: Numerous provisions that are anticipated to have significant fiscal impact are delayed and will take effect on July 1, 1993. The affected agencies are directed to prepare budget requests for the 1993-95 biennium to implement the delayed provisions. State and county agencies that must implement the provisions of the bill that take effect this year must implement those provisions within available funds unless the supplemental operating budget funds an expansion of services. Nothing in the act requires them to develop new programs or build new facilities.

The provisions that allowed the court to order a parent into treatment and to find the parent in contempt for noncompliance are stricken. Provisions that required the parents to attend all court proceedings involving the juvenile are also stricken. Instead, when the court summons the parent to attend the arraignment, which is required under existing law, the court clerk must send the parents a letter encouraging the parents to participate in the process, advising the parents of their rights and the resources available through the juvenile court, advising them that if they do not appear as provided in the summons the court may hold them in contempt as per existing law, but the court may waive their appearance for a good cause. The letter must also advise the parents that the court may refer the family to counseling, classes, or other investigatory agencies if the court believes that family problems or the

parent's substance abuse problems may be adversely impacting the juvenile and may be contributing to the juvenile's delinquency. The court may order a presentence investigation to determine whether the family problems or parent's substance abuse problems may be contributing to the juvenile's delinquency, and, if so, the court may refer the family to counseling, classes, or to other investigatory agencies such as Child Protective Services.

A number of changes to the disposition provisions are made:

Home detention with electronic monitoring will not be considered "confinement" or a "detention facility" but may be used to monitor juveniles pending trial or post-adjudication. Consequently, juveniles ordered into detention pending adjudication will not be placed on home detention and those juveniles that are monitored by electronic means will not be given credit for time served.

The deadly weapon enhancement provisions are narrowed to apply to only those crimes that would result in a deadly weapon enhancement if an adult committed a particular offense. The provision that increases the penalty imposed if a student brings a firearm onto an elementary or secondary school's premises is amended to provide additional exceptions to the prohibition.

The provisions regarding "option D," which is a new disposition option for judges to order children into inpatient or outpatient treatment, are amended to provide that placement in outpatient treatment as well as inpatient treatment is subject to available funds. The existence of the option is not intended to restrict the court from referring a juvenile to treatment on a voluntary basis. In addition, if the juvenile agrees to enroll in treatment on a voluntary basis the court may include that agreement in the disposition order. If the juvenile then does not comply with the agreement, the court may modify the disposition and order the child into treatment involuntarily if the commitment criteria are met. The court may not send the child to detention as a sanction for violating the voluntary agreement. Clarifying language is added that option D does not apply to juveniles who have been committed to the Department of Social and Health Services.

Some provisions regarding diversion programs are amended. Law enforcement agencies will not be expressly prohibited from conducting a formal diversion program through the law enforcement agency. Mediation and victim offender reconciliation programs must be voluntary for the victims. The new requirement on diversion units to obtain interpreters for juveniles who are diverted is amended to

provide that the interpreter does not have to be a "qualified" interpreter, which is a term of art and applies to a narrow group of interpreters, and the requirement is subject to available funds. If the juvenile does not comply with the diversion agreement, current law is restored that requires the diversion unit to immediately refer the case to the prosecutors for a filing decision rather than "consult" with the prosecutor about the appropriate response.

The Office of the Administrator for the Courts must collect the data necessary to monitor whether the bill results in any disparity in treatment of juveniles because of race or economic factors.

A number of technical amendments are made.

Fiscal Note: Requested January 24, 1992.

Effective Date of Substitute Bill as Amended: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Juvenile Justice Act should be amended to provide greater flexibility in sentencing so that juveniles can receive needed treatment. Parental involvement is important. Developing smaller secure institutions in communities where the offender can have contact with his or her family will promote reintegration into the community upon release from custody.

Testimony Against: The bill's provisions could have a significant fiscal impact on state and local resources, but the bill does not contain any appropriations. Requiring services to be delivered through the criminal justice system without providing funding will strain already limited resources and will displace recipients of those services who need them and now receive them voluntarily or through other commitment avenues. Parents need to be encouraged, not coerced, into participating in the juvenile justice system when their child is charged with a crime.

Witnesses: Norm Maleng, King County Prosecutor, Juvenile Issues Task Force Subcommittee Chair on Juvenile Offenders (pro); Kathleen O'Connor, Superior Court Judge and Juvenile Issues Task Force member (pro); Lyle Quasim, Safe Streets Campaign of Pierce County (pro); Linda Grant, Alcoholism and Addictions Programs (opposed to provisions regarding option D, suggests amendments); Peter Berliner, Children's Alliance (concerned about impact on local and state resources); Larry Fehr, Washington Council on Crime and Delinquency (concerned about impact on local and state resources); Lonnie Johns-Brown, Washington Association of Social Workers (concerned about compelling parents into treatment); Robert Hunner,

Governor's Juvenile Justice Advisory Committee (concerned about disparity in application); Kurt Sharar, Washington Association of Counties (concerned about fiscal impact on counties); Stephanie Carter, Washington Association of Prosecuting Attorneys (concerned about blurring distinction between criminal courts and dependency courts); and Darlene Flowers, Foster Parents Association of Washington State; (concerned about impacts on foster care placements).