

HOUSE BILL REPORT

HB 2491

*As Reported By House Committee on:
Judiciary*

Title: An act relating to HIV testing of juvenile offenders.

Brief Description: Requiring HIV testing of certain juvenile offenders.

Sponsor(s): Representatives Padden, Paris, Silver and Morton.

Brief History:

Reported by House Committee on:
Judiciary, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; Mielke; H. Myers; D. Sommers; Tate; and Vance.

Minority Report: *Do not pass.* Signed by 4 members: Representatives Appelwick, Chair; Belcher; Inslee; and Scott.

Staff: Pat Shelledy (786-7149).

Background: Local health departments must conduct HIV testing, pretest counseling, and post-test counseling of all persons convicted of a sexual offense, prostitution, or offenses relating to prostitution, or drug offenses if the court determines at the time of conviction that the drug offense is one associated with the use of hypodermic needles. The local health department must conduct the test as soon as possible after sentencing. The sentencing judge must order the testing.

The attorney general has issued an opinion that the law does not apply to juveniles "adjudicated" of one of the offenses that triggers the testing requirement for adults because juveniles are not "convicted."

Juvenile offenders may be "diverted" from regular criminal prosecution in some cases. The law permits diversion of certain prostitution cases.

Summary of Substitute Bill: Juveniles adjudicated of sex offenses, prostitution, or offenses relating to prostitution, or drug offenses that are associated with the use of hypodermic needles must be tested for HIV, and given pretest and post-test counseling by the Department of Health. In addition, if a juvenile is charged with prostitution or patronizing a prostitute and is diverted, the diversion agreement must include referral of the juvenile to local health departments for HIV testing and counseling.

Substitute Bill Compared to Original Bill: Referral for testing and counseling juveniles diverted from prosecution will occur as part of the diversion agreement rather than before the case is diverted.

Fiscal Note: Available.

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

Testimony For: HIV testing should extend to juveniles who commit crimes that subject adults to testing.

Testimony Against: Testing under coercive circumstances is counterproductive. The bill will not help prevent the spread of AIDS. Under current law 254 adults have been tested and none tested positive, so extending this law to juveniles is a poor use of resources. Voluntary prevention and education is the most effective method of preventing the spread of disease.

Witnesses: Mike Redman, Washington Association of Prosecuting Attorneys (supports); John Pepper, Department of Health (neutral, except opposes testing as part of diversion agreement); Liz Smith, Northwest AIDS Foundation (opposes); and Kelly Scott, AIDS Watch (opposes).