

SENATE BILL REPORT

ESHB 2466

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 21, 1992

Brief Description: Changing provisions relating to juveniles.

SPONSORS: House Committee on Human Services (originally sponsored by 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)

HOUSE COMMITTEE ON HUMAN SERVICES

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Nelson, Chairman; Hayner, M. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Jack Brummel (786-7428); Lidia Mori (786-7755)

Hearing Dates: February 21, 1992

SENATE COMMITTEE ON WAYS & MEANS

Staff: Cindi Holmstrom (786-7715)

Hearing Dates: February 24, 1992

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:

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 non-committable 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. The violation of the Uniform Firearm's Act is amended to apply to juveniles as well as adults. The law that prohibits students from bringing firearms onto elementary or secondary school premises is amended to provide that the penalty will be increased from a gross misdemeanor to a class C felony. Additional exceptions to the prohibition are added allowing students to bring firearms to school under certain circumstances.

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

When the court clerk, as provided in current law, issues a summons to parents to appear at their child's arraignment, the court clerk must also send a letter to the parents advising the parents of their rights, providing information, and advising them that under current law the court may hold the parents in contempt for failing to appear. In addition, the letter must advise them that the court may refer the parents and family to services and other investigative agencies such as Child Protective Services, if the court thinks that family problems or the parents' substance abuse may be contributing to the minor's delinquency. The court is required to consult with the parents, guardian, or custodian of a juvenile offender before disposition of the juvenile's case.

Diversion agreements may not exceed six months unless an extension is necessary for purposes of restitution. 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 interpreters when necessary, subject to available funds. 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.

The Department of Social and Health Services (DSHS) is to develop a plan to reduce its reliance on large institutional facilities. The department is directed to continue the racial disproportionality study that began in 1991.

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. The Administrator for the Courts 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.

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

Families at Risk

Schools will annually notify parents and children of truancy laws. Schools are required to notify parents after one unexcused absence. 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 will issue annual reports to the Legislature on school enforcement efforts.

The Department of Social and Health Services will contract with two types of crisis residential centers (CRCs); group care CRCs, and foster care CRCs. A child will remain in a CRC no longer than five consecutive days from the date of intake. A family reconciliation services supervisor will authorize placement of a child in a CRC. The minimum staffing ratio in group care CRCs is one staff person per three children.

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

Family reconciliation services staff will not perform other social workers' case work tasks for the Department of Social and Health Services except in rural offices where it proves impractical.

A planning, allocation, and service system for at-risk youth, runaways, and families in conflict will be developed by the

Juvenile Issues Task Force for consideration during the 1993 legislative session.

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 will design and implement the department's services and programs to maximize the state's allocation of federal funds. The department will also 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 will 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. County designated mental health professionals will take additional information into account when deciding if a child should be involuntarily committed for 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.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: Most of the provisions that may have significant fiscal impact are delayed until July 1, 1993. The following sections take effect on July 1, 1993: sections 103, 105, 107, 111, 118, 207, 305, 306, 307, 308, 309 and 310. The remaining sections will take effect 90 days after adjournment of the session in which bill is passed.

SUMMARY OF PROPOSED SENATE AMENDMENTS:

The statutory purposes of the state's Juvenile Justice Act are declared to be equally important.

The Juvenile Disposition Standards Commission is to report to the Legislature every other year.

The section raising student firearm possession on school premises to a class C felony is removed.

The court will require the appearance of the parents, guardians, or custodians of juveniles before the court for detention, adjudicatory, and disposition hearings. If funds are available, the court may require a parent, guardian, or custodian to participate in educational, counseling, or treatment programs after conducting a hearing and entering findings of fact that a parent has significantly contributed to the juvenile's offense.

Law enforcement officials or entities do not qualify as diversion units.

The Department of Social and Health Services (DSHS) is 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.

When a victim files a civil cause of action for restitution when a child destroys property or inflicts personal injury, parental financial responsibility is increased from \$3,000 to \$5,000.

Counties may operate a youthful offender discipline program which shall include educational and work assignments as well as physical training exercises for program participants.

A child between the ages of 14 and 18 may be placed in a youthful offender discipline program if the youth has been committed to the Department of Social and Health Services as a serious or minor offender. Each county operating a youthful offender discipline program must adopt rules for screening appropriate candidates for the program.

Each county operating a youthful offender discipline program is required to 1) keep records and monitor the criminal activity, educational progress, and employment placement of offenders who complete the youthful offender discipline program, and 2) conduct an outcome evaluation study based on such comparison no later than 18 months after the youthful offender discipline program becomes operational.

Families at Risk

Schools are required to inform a juvenile's parent or guardian of the fact that the juvenile has failed to attend school after one unexcused absence occurs during the current school year. Schools are required to schedule a conference with the parent or guardian and the juvenile after the juvenile has two unexcused absences during the current school year. After five or more unexcused absences during the current school year, the attendance officer of the school district may petition the juvenile court to assume jurisdiction. 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 including referral to a community truancy board. The Superintendent of Public Instruction is to issue annual reports to the Legislature on school enforcement efforts.

A child is not to remain in a crisis residential center (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 and the change in staffing ratios for group care crisis residential facilities is removed. The minimum staffing ratio in regional CRCs is lowered to one staff person per three children. A CRC may also be licensed as a family foster home or group care facility.

The department is required to file a petition to approve an alternative residential placement on behalf of a child five days after the parents have been notified that their child is at CRC.

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.

Family reconciliation services staff will not perform other social workers' case work tasks for the Department of Social and Health Services except in rural offices where it proves impractical.

The department is directed to ensure that law enforcement's responsibility to pick up and transport children to CRCs is facilitated.

Fetal alcohol syndrome is added to the list of meanings for the term "developmental disability."

Involuntary Treatment and Commitment

In assessing risk of harm for purposes of determining the need for involuntary treatment of a minor, the frame of reference must include all relevant history and is not limited to the minor's behavior when assessed by a mental health professional.

A mental disorder is defined to include any illness, impairment, or disorder identified by the American Psychiatric Association.

TESTIMONY FOR: None

TESTIMONY AGAINST: None

TESTIFIED: No one