

SENATE BILL REPORT

SB 6041

AS REPORTED BY COMMITTEE ON WAYS & MEANS, FEBRUARY 14, 1992

Brief Description: Changing provisions relating to juveniles.

SPONSORS: Senators Nelson, A. Smith, Thorsness, Rasmussen, Anderson, Johnson, Madsen, Owen, Jesernig, Talmadge and Newhouse.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

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

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

Hearing Dates: January 14, 1992; January 15, 1992; January 16, 1992; January 28, 1992

SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: That Substitute Senate Bill No. 6041 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chairman; L. Smith, Vice Chairman; Craswell, Stratton, and Talmadge.

Staff: Richard Rodger (786-7461)

Hearing Dates: February 4, 1992; February 6, 1992

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6041 be substituted therefor, and the second substitute bill do pass.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Amondson, Bailey, Bluechel, Cantu, Hayner, Metcalf, Newhouse, Saling, L. Smith, and West.

Minority Report: Do not pass.

Signed by Senators Murray, Niemi, Owen, Rinehart, and Wojahn.

Staff: Cindi Holmstrom (786-7715)

Hearing Dates: February 11, 1992; February 14, 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:

The original bill was not considered.

SUMMARY OF PROPOSED LAW & JUSTICE AMENDMENT:

Juvenile Offenders

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

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.

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

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. 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.

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 DJR 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 ten 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.

A juvenile adjudication of a crime of violence or a felony involving a firearm will preclude an individual from lawfully possessing a firearm. Student possession of a firearm on school premises is a class C felony.

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

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. 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.

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.

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

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.

Legislative Joint Select Committee

A joint select committee of the Legislature is created to review and evaluate the work of the Juvenile Issues Task Force, make recommendations to the Legislature, and identify funding mechanisms.

EFFECT OF PROPOSED CHILDREN & FAMILY SERVICES SUBSTITUTE:

Inpatient or outpatient is allowed to be included within community supervision. Foster care placements are eliminated from the definition of "community-based rehabilitation" in juvenile criminal cases. Residential placements under the control of the Department of Social and Health Services are eliminated from the definition of "detention facilities." Family reconciliation services for use in juvenile criminal cases are eliminated.

The requirement of the parents' appearance at juvenile court proceedings and the provision allowing the court to order the parent to participate in counselling or treatment programs are removed.

"Regionally based facilities" instead of "locally sited community facilities" is provided. The provision requiring the department to determine whether the facilities should be state-run or contracted facilities is eliminated.

Training in decision-making and life skills from the youth offender discipline programs is eliminated.

The section which raises the offense of possession of a firearm on school premises from a gross misdemeanor to a class C felony is stricken. A police officer is allowed to make a warrantless arrest if he or she has probable cause to believe that a person unlawfully possesses a firearm or dangerous weapon on school premises.

School districts shall provide notice of the truancy laws to parents and students. The provision that the notice must be in writing is eliminated.

Current law on the department's requirements for filing an alternative residential placement after the child has been in a crisis residential center (CRC) over 72 hours is retained. The distinction between the regional and locals CRCs is eliminated. That staffing ratios shall be minimum ratios is provided. Children are allowed to be transferred between CRCs.

The mandate to the Department of Social and Health Services and the Governor regarding the preparation of a budget request is eliminated. The section which imposes additional duties on the Office of the Administrator for the Courts is included within the null and void clause.

EFFECT OF PROPOSED WAYS & MEANS SECOND SUBSTITUTE:

The provisions which relate to departmental planning for implementation of regional-based juvenile facilities and the section which increases the number of crises residential centers and modifies the staff ratio are made contingent upon funding in the budget. Also, the section requiring counseling for juveniles in diversion is deleted from the null and void clause.

Appropriation: none

Revenue: none

Fiscal Note: requested January 10, 1992

TESTIMONY FOR:

Many at-risk youth become juvenile offenders; early intervention is needed to prevent children from turning to crime. It is important to have parental involvement at every juncture of the juvenile system. This bill gives greater flexibility to judges in confinement and community supervision options.

Truancy is a primary indication of subsequent problems children will have with the legal and social services system.

The current families-at-risk system has created a lot of dissatisfaction. The delivery of services needs to address local needs.

A quicker response is needed in diversion. There is a need for more and smaller detention facilities closer to the community from which a youth comes.

TESTIMONY AGAINST:

Funding issues around cost items have not been addressed. The parental involvement requirements are onerous. Possession of deadly weapons by students on school grounds shouldn't be a felony. Schools shouldn't be held to benchmarks on truancy.

TESTIFIED (Law & Justice): PRO: Representative Brian Ebersole; Norm Maleng, King County Prosecutor; George Yeannakis, King County Public Defender; Harold Dehlia, King County Division of Youth Services; Bobbe Bridge, King County Superior Court; George Shelan, Community Youth Services; Lois Smith, Jefferson County Juvenile Court; Larry Fehr, Washington Council on Crime and Delinquency; Larry Norwood, Association of Washington Principals; John Pope, Port Angeles School District; Joe Howe, Clallam County Sheriff; Pete Peterson, Clallam County Juvenile Court; Ted Cowan, Washington State Rifle and Pistol Association; (neutral): Clifford Weimer, Deen Uribe, Naselle Youth Camp; Larry Goodman, Washington Federation of State Employees; Bob Noan, Steve Gregorich, Stephanie Carater, WAPA; Kurt Sharar, Washington State Association of Counties; Jeralita Costa, Washington Coalition of Crime Victim Advocates; Jocie DeVries, FAS Adolescent Task Force; John Kvamme, Tacoma Public Schools; Dennis Cook, Washington Arms Collectors

TESTIFIED (Children & Family Services): Clifford Weimer, Dean Uribe, Naselle Youth Camps (con); Darlene Flowers, Ex. Dir. Foster Parent Assn. (pro); Ted Cowan, WA State Rifle & Pistol Assn. (con); Charles Chelan, Ex. Dir. Comm. Youth Services; Larry Fehr, WA Council on Crime & Delinquency; Larry Goodman, Federation of State Employees (con); Linda Grant, Assn. of Alcoholism & Addiction Programs; Bob Naon, Dep. Prosecuting Attorney, Kitsap County (con); Al Woodbridge, WA State Rifle & Pistol Assn. (con); Kurt Sharar, WA State Assn. of Counties

TESTIFIED (Ways & Means): Kurt Sharar, Washington State Association of Counties (pro); Margaret Casey, Children's Alliance (pro)