

# FINAL BILL REPORT

## E2SHB 2319

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### PARTIAL VETO

C 7 L 94 E 1

**Brief Description:** Enacting programs to reduce youth violence.

By House Committee on Appropriations (originally sponsored by Representatives Appelwick, Leonard, Johanson, Valle, Wang, Wineberry, Scott, Karahalios, Caver, Kessler, Basich, Wolfe, J. Kohl, Voloria, Quall, Holm, Jones, Shin, King, Patterson, Eide, Dellwo, L. Johnson, Springer, Pruitt, Ogden, H. Myers and Anderson; by request of Governor Lowry).

House Committee on Judiciary  
House Committee on Appropriations  
Senate Committee on Health & Human Services  
Senate Committee on Ways & Means

### **Background:**

#### **PART I. INTENT**

Violence committed by youth and directed toward youth is a serious problem affecting a large number of children and families. Causes of violence are complex and interrelated, and they cross economic and social boundaries. The incidence of child abuse, domestic violence, use of alcohol and drugs, poverty and the easy availability of firearms are all related in some manner to the level of violence in our communities.

#### **PART II. PUBLIC HEALTH**

The collection of data related to violence occurs in several local and state agencies. There are currently no consistent guidelines for the collection and analysis of data related to violence.

#### **PART III. COMMUNITY NETWORKS**

Services for children and families are provided through a wide array of state and local agencies at the local level. Although efforts to improve coordination and collaboration exist in some portions of the state, there is no uniform policy and process to ensure that community-based planning and service delivery for children and their families are instituted across the state.

#### **PART IV. FIREARMS AND OTHER WEAPONS**

Terms such as "tidal wave," "epidemic," and "unprecedented" have been used by the media and others to describe the escalating incidence of violence in the United States, particularly violence among juveniles. In the search for solutions, attention has been drawn to the availability of firearms and the role firearms play in violence.

Some commentators blame the ready availability of firearms for the tremendous personal and societal losses currently resulting from accidental or intentional misuse of firearms. Other persons are concerned that restricting firearm availability will infringe upon the right of a law-abiding citizen to keep and bear arms.

Washington courts have held a citizen's right to possess and use firearms is subject to reasonable state regulation under its police power. To meet the test of reasonableness, the regulation must be reasonably necessary to protect the public safety, health, morals and general welfare, and it must be substantially related to the legitimate ends sought.

#### **FIREARMS AND JUVENILES.**

State and federal laws prohibit the transfer of handguns to persons under the age of 21. Federal law also prohibits the transfer of rifles and shotguns to persons under the age of 18.

However, neither state nor federal law expressly prohibits persons under the age of 21 from possessing firearms or from carrying firearms in public, as long as the firearms are carried openly rather than concealed, and are not carried in a manner intentionally intimidating or warranting alarm. One exception is that Washington law prohibits juveniles under the age of 14 from possessing any firearm, except under the supervision of a parent, guardian, other adult approved by the parent or guardian, or under the supervision of a certified safety instructor. Juveniles under the age of 14 who illegally possess a firearm, or persons who aid or knowingly permit a juvenile to illegally possess a firearm, are guilty of a misdemeanor.

The Youth Handgun Safety Act of 1993, currently pending in Congress, would make it illegal to transfer a handgun or handgun ammunition to a juvenile under the age of 18 unless an enumerated exception applied. The act also would make it illegal for the juvenile to possess either a handgun or handgun ammunition, unless an enumerated exception applied. Violators of the act could be incarcerated for one year, fined or sentenced to probation. The act also would amend

the Juvenile Justice and Delinquency Prevention Act of 1974 (JJJPA) to allow the incarceration of juveniles who illegally possess firearms, without jeopardizing a state's funding under the JJJPA.

The JJJPA provides formula grants to states and local governments for juvenile delinquency programs and to improve the juvenile justice system. To qualify for a grant, a state must refrain from placing juveniles in secure detention or correctional facilities for status offenses, that is, offenses that would be legal if the juvenile were an adult. Washington reportedly receives approximately \$1 million under the JJJPA.

#### **FIREARMS AND OTHER PERSONS.**

**Persons Disqualified from Possessing Pistols.** Current state law makes it a class C felony for a person to possess a pistol if he or she has been convicted of a crime of violence, a felony in which a firearm was used or displayed, a felony violation of the Uniform Controlled Substances Act, or if he or she has been involuntarily committed for mental health treatment. With the exception of persons involuntarily committed for mental health treatment, such persons are not disqualified from possessing other types of firearms, such as rifles or shotguns.

Persons ineligible to possess a pistol are also ineligible for a concealed pistol license. Under current law, a person convicted of assault in the third degree, indecent liberties, malicious mischief in the first degree, possession of stolen property in the first or second degree, or theft in the first or second degree is qualified to possess a pistol but not qualified for a concealed pistol license. (The reference to indecent liberties includes only indecent liberties other than by forcible compulsion, because indecent liberties by forcible compulsion is included in the definition of a crime of violence.)

Persons ineligible to possess a firearm due to involuntary commitment for mental health treatment, and persons who are ineligible for a concealed pistol license but are eligible to possess a pistol, may have their rights restored if certain conditions are met.

**Restoration of Rights.** A person ineligible to possess a pistol because of involuntary mental health commitment may petition a court to have his or her right to possess a pistol restored. The court must immediately restore the right upon a showing that the person is no longer required to participate in a treatment program and is no longer required to take medication to treat a condition related to

the commitment. There is no requirement to show that the condition leading to the commitment no longer exists and is unlikely to recur. Although the right to possess a pistol must be restored by a court, current law requires the Department of Social and Health Services (DSHS) to develop rules to create an approval process for the restoration of such rights.

A person eligible to possess a pistol, but ineligible for a concealed pistol license because of having been convicted of an enumerated crime, may petition a District Court to have his or her eligibility restored after one year following successful completion of his or her sentence, provided he or she has not again been convicted of, and is not under indictment for, any crime.

**Delivery of Pistols.** A current state statute makes it a misdemeanor to deliver a pistol to someone under the age of 21, or where there is reason to believe the recipient has been convicted of a crime of violence or is a drug addict, habitual drunkard or of unsound mind. The terms "drug addict," "habitual drunkard," and "unsound mind" are undefined. In addition, the statute does not make it illegal to deliver a rifle or shotgun to a person in any of the listed groups.

**Carrying Firearms.** A person carrying a concealed or loaded pistol in a vehicle must have a concealed pistol license unless an exception applies. However, there are few other restrictions on the manner in which a person may carry a firearm. The primary restrictions prohibit, with some exceptions, a person from carrying any firearm in a manner intentionally intimidating or warranting alarm, or carrying a loaded shotgun or rifle in a vehicle. Carrying loaded pistols that are visible, or loaded rifles or shotguns outside of a vehicle, is permissible as long as the firearms are not carried in an intentionally intimidating or alarming manner.

#### **CONCEALED PISTOL LICENSES.**

Unless an exception applies, a person may carry a concealed pistol without a concealed pistol license only at home or at a fixed place of business. Only persons with concealed pistol licenses, or persons covered by an exception, may carry a loaded pistol in a vehicle. Carrying a pistol outside of these limitations is a misdemeanor.

**Applications.** An applicant must meet several requirements to qualify for a concealed pistol license. For example, an applicant must be at least 21 years of age, must not have been convicted of specified crimes, and must not be subject

to a court order or injunction regarding firearms under specified domestic violence or marital dissolution statutes.

An applicant may apply for a license anywhere in the state, regardless of where the applicant lives.

There have been reports of issuing authorities refusing to accept applications for concealed pistol licenses during normal business hours.

Making a false statement regarding citizenship or other information on a concealed pistol license application is a misdemeanor, but there is no explicit requirement that the issuing authority, usually a law enforcement agency, verify the information on the application.

The issuing authority sends copies of issued concealed pistol licenses to the Department of Licensing (DOL).

**License Revocation.** The license-issuing authority is to revoke the license of a person convicted of a crime that makes the person ineligible to own or possess a pistol, or upon the third conviction within five years of a violation of the firearms and dangerous weapons statutes. There is no express requirement that the license-issuing authority revoke the license of a person committed for mental health treatment or of a person ineligible for a license at the time of application. There also is no direction to a court regarding whether the court should require a person subject to a harassment, domestic violence, or other domestic relations protective order to surrender a concealed pistol license, a firearm, or other dangerous weapon.

**Licensing Fees.** The current fee for an original license is \$23, and its distribution is set by statute: \$4 to the state general fund, \$4 to the agency taking the fingerprints, \$12 to the issuing authority, and \$3 to the firearms range account. The license must be renewed every four years.

The issuing authority's \$12 share has remained the same since 1983, when the share was raised from \$1.50. At the same time, the total cost of an original license was raised from \$5 to \$20. In 1988, the total cost was raised \$3 to the current cost of \$23, with the additional \$3 earmarked for the firearms range account.

The current fee for a renewal license is \$15, with \$4 distributed to the state general fund, \$8 to the issuing authority, and \$3 to the firearms range account. As with original licenses, the fee for a renewal license was raised \$3 in 1988, with the increase allocated to the firearms

range account. Again, the issuing authority's share has remained constant since 1983.

A late fee of \$10 is assessed for a license not renewed within 90 days of expiration, with \$3 allocated to the state wildlife fund and \$7 allocated to the issuing authority.

#### **FIREARMS DEALERS.**

State law requires retail pistol dealers: (1) to be licensed; (2) to conduct business only in the building designated in the license; (3) to display the license on the premises; (4) to sell pistols in accordance with state laws and only to purchasers personally known to the seller or who present clear identification; and (5) to keep detailed sales records. These requirements do not apply to dealers who sell only shotguns and rifles, or to dealers or other persons who sell ammunition but do not sell pistols.

**Deliveries to Purchasers.** Dealers also must: (1) withhold delivery of a pistol until specified conditions are met (the purchaser produces a valid concealed pistol license, the dealer receives word from the law enforcement agency of the jurisdiction in which the dealer resides that the application to purchase is granted, or the requisite time elapses); (2) require a purchaser to complete an application providing various information and deliver the application to the local law enforcement agency; or (3) give a purchaser a copy of the Department of Wildlife pamphlet concerning firearms laws and safety. The same restrictions do not apply to sales of rifles or shotguns.

Failure to comply with a requirement is a misdemeanor and is to result in license forfeiture.

Making a false statement on a purchase application is a misdemeanor, but law enforcement agencies are not explicitly required to verify that an applicant is eligible to purchase a pistol.

State law does not define a "dealer," but it does define a "commercial seller" to mean anyone who has a federal firearms license.

**Licensing.** Federal law requires dealers in all types of firearms to be licensed. A "dealer" under federal law is any person who is: (1) engaged in the business of selling firearms at wholesale or retail; (2) engaged in the business of repairing firearms or of making or fitting special barrels, stocks or trigger mechanisms to firearms; or (3) a pawnbroker whose business includes receiving firearms as security for payment.

The term "engaged in the business" in the federal definition means a person who devotes time, attention and labor to dealing in firearms as a regular course of trade or business, with the principal objective of livelihood and profit through repetitive dealing in firearms. It does not include a person who makes occasional sales, exchanges, purchases, repairs or other transactions involving firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of a personal collection of firearms.

The screening process for a federal dealer's license is more extensive than that for a state dealer's license. As with state law, to qualify for a federal license the applicant must have premises from which to conduct business. Although a license is required for each of the premises, an exception is made for gun shows.

DOL reportedly processes approximately 580 original and approximately 1,600 renewal applications for dealer licenses per year. According to the Bureau of Alcohol, Tobacco and Firearms (ATF), over 6,000 federally licensed dealers list the state of Washington as their place of business. The Brady Bill recently raised the cost of a three-year federal license (original or renewal) from \$30 to \$200 for the initial three-year license, and \$90 for a three-year renewal license. A state dealer's license costs \$5 and must be renewed annually.

It has been suggested that some persons with federal licenses are not actually engaged in the business of selling firearms but rather are licensed primarily for the advantage of being able to purchase firearms at lower prices than an unlicensed consumer would pay.

**CONFIDENTIALITY.**

DSHS, mental health institutions, and other health care facilities must supply information relevant to determining a person's eligibility to possess a pistol or concealed pistol license upon written request from courts or law enforcement agencies. There is no specific requirement that the person authorize the disclosure of such information.

The information provided is to be used exclusively for the purpose of determining the person's eligibility to possess a pistol or for a concealed pistol license, and it is not to be made available for public inspection except by the person who is the subject of the information. The statute imposing the requirement was enacted in 1983. However, the Uniform Health Care Information Act, enacted in 1991, specifies some circumstances in which a health care provider may deny a

person his or her health information, such as when release of the information could reasonably be expected to endanger someone's life or safety.

Applications for concealed pistol licenses are exempt from public disclosure, except to law enforcement and corrections agencies. The same is not true of applications for alien firearm licenses or to purchase pistols, or records of pistol transfers.

DOL keeps records of purchase applications and pistol transfers but is not expressly authorized by statute to do so. Law enforcement agencies check DOL records when a specific firearm is involved in the investigation of a crime.

#### **PREEMPTION.**

Since the state has preempted the area of firearms regulation, counties, cities and other municipalities may enact only those ordinances specifically authorized by state law. Currently, counties, cities and other municipalities may adopt ordinances restricting the discharge of firearms in areas where persons, domestic animals or property would be jeopardized and may restrict possession of firearms in stadiums or convention centers unless the person has a concealed pistol license. Counties and cities are not authorized to regulate, through zoning, where firearms may be sold.

#### **SCHOOL GROUNDS.**

During the 1993 session, the Legislature amended the law governing firearms and other dangerous weapons on school grounds. Unless an exception applies, the law now prohibits any person from carrying firearms or other dangerous weapons onto school premises, onto school-provided transportation, or into areas of facilities while being used exclusively by schools.

The current state law does not specifically address a situation where a person has possession of a firearm or other dangerous weapon on, but may not have carried the weapon onto, school premises.

Several exceptions concern weapons in vehicles. Any person conducting legitimate business at the school may have a firearm or other dangerous weapon if the weapon is: (1) secured in an attended vehicle; (2) concealed in a locked, unattended vehicle; or (3) unloaded and secured in a vehicle. Current firearm laws do not prohibit any person 14 years of age or older from possessing firearms, and they do



not prohibit the delivery of firearms other than pistols to anyone under the age of 21. Some persons have argued "conducting legitimate business at the school" includes attending school or after-school events as a student.

Carrying firearms or other dangerous weapons in violation of the statute is a gross misdemeanor and subjects a student to expulsion. "Expulsion" is, by definition, for an indefinite period of time.

#### **JUVENILE DRIVING PRIVILEGES.**

Currently, a court is required to notify DOL if the court has found that a juvenile between the ages of 13 and 18 has violated the state's drug or alcohol control laws. Upon receiving the notice and without a hearing, DOL must revoke the juvenile's driving privileges. For a first notice, DOL revokes the privileges for one year, or until the juvenile reaches 17 years of age, whichever is longer. For a subsequent notice, DOL revokes the privileges for two years, or until the juvenile reaches 18 years of age, whichever is longer.

A juvenile may petition the court for earlier reinstatement of driving privileges. The court may, at any time the court deems appropriate, notify DOL that the juvenile's driving privileges should be reinstated. However, for a first offense, the juvenile must wait to petition the court until 90 days after the date he or she turns 16, or 90 days after the judgment was entered, whichever is later. For a subsequent offense, the juvenile must wait until he or she turns 17, or one year after the date the judgment was entered, whichever is later.

Similarly, if a juvenile enters into a diversion agreement for a violation of the drug or alcohol control laws, the diversion unit must notify DOL after the diversion agreement is signed. Upon receiving the notice and without a hearing, DOL must revoke the juvenile's driving privileges.

The diversion unit also must notify DOL once the juvenile has completed the agreement so DOL can reinstate the juvenile's driving privileges. However, for a first offense, DOL cannot reinstate the driving privileges until the later of 90 days after the date the juvenile turns 16, or 90 days after the juvenile entered into the diversion agreement. For a subsequent offense, DOL cannot reinstate the juvenile's driving privileges until the later of the date the juvenile turns 17, or one year after the juvenile entered into the diversion agreement.

No similar provisions exist to revoke the driving privileges of juveniles who illegally possess firearms in a vehicle, or who commit offenses while armed with a firearm that involve the use of a vehicle.

#### **MISCELLANEOUS PROVISIONS.**

**Immunity.** The Brady Bill gives immunity to local governments and local and federal governmental employees responsible for providing information to the national instant criminal background check system. The immunity extends to failing to prevent the sale of a firearm to a person ineligible to possess a firearm and to preventing the sale of a firearm to a person eligible to possess a firearm.

An applicant may bring a civil suit to enjoin a wrongful refusal to issue a concealed pistol license and is entitled to costs and reasonable attorneys' fees if successful. Also, a person whose application to purchase a pistol is denied may appeal to a local legislative authority for a review of the denial. The person is entitled to judicial review if the legislative authority does not permit the pistol sale.

**Restricted Firearms.** Although the possession of short-barreled rifles and short-barreled shotguns is regulated under federal law, possessing such firearms does not violate state law.

Currently, firearms manufacturers in Washington State may produce machine guns for sale to the United States armed forces. Members of the armed forces may possess machine guns, even when not engaged in official duties. Manufacturers are not expressly authorized to repair such firearms or to sell them to domestic law enforcement agencies, although law enforcement officers engaged in official duties are allowed to possess machine guns. Neither are manufacturers authorized by state law to sell machine guns to foreign countries, even if the manufacturer complies with all federal requirements.

Employees of such manufacturers are not required to undergo fingerprinting or background checks.

**Firearm Range Training and Practice Facilities.** Many law enforcement personnel and members of the general public use firearm range training and practice facilities as places to shoot their firearms. Entities receiving matching funds or grants from the firearms range account are required to keep facilities open on a regular basis and available for use by law enforcement personnel or members of the general public

with concealed pistol licenses or Washington hunting licenses.

**Conflicts Between Firearms Laws and Other Criminal Statutes.**

Some provisions of current firearm laws potentially conflict with other laws in the criminal code. For example, firearm laws concerning spring guns potentially conflict with the assault and homicide statutes.

A statute creating a presumption that a person armed with an unlicensed pistol intended to commit a crime of violence has been declared unconstitutional by the Washington Supreme Court.

**Surrender of Weapons When a Protection Order Is Entered.**

"Protection" orders restrain a person from contacting or harming another person. Protection orders may be granted in criminal or divorce cases, or in other civil actions upon petition by the person who feels threatened. Some, but not all, of the statutes which authorize issuance of protection orders also grant courts authority to require parties to surrender firearms or other deadly weapons under certain circumstances.

**PART V. PUBLIC SAFETY**

**A. CRIMES.**

A person commits the crime of theft in the second degree if the person steals a firearm having a value less than \$1,500. If the firearm's value is \$1,500 or more, the crime is theft in the first degree. A person commits the crime of possession of stolen property in the second degree if the person possesses a stolen firearm, regardless of the firearm's value.

A person commits the crime of reckless endangerment in the first degree if the person discharges a firearm from a vehicle in a reckless manner and creates a substantial risk of injury or death to another person.

**B. PROVISIONS AFFECTING ADULT OFFENDERS.**

**(1) Adult Criminal Penalties.**

**a. Theft in the First and Second Degree.** Theft in the second degree and possession of stolen property in the second degree are class C felonies ranked at seriousness level I on the sentencing grid. A first time adult offender's standard range is 0 to 60 days in jail. Theft in the first degree is a class B felony

and is ranked at seriousness level II. A first time offender's standard range is 0 to 90 days in jail.

**b. Reckless Endangerment in the First Degree.**

Reckless endangerment in the first degree is a class C felony and is ranked at seriousness level II.

**c. Deadly Weapon Enhancements.** If an adult offender commits one of certain specified crimes while armed with a deadly weapon, an additional term of confinement must be imposed. Not all violent offenses are included in the list of offenses which may trigger application of the deadly weapon enhancement.

**d. Earned Early Release Credits.** Offenders committed to the Department of Corrections (DOC) may earn "early release" credits for good behavior and good performance. DOC establishes rules for what constitutes good behavior and good performance.

**(2) Correctional Industries.** DOC, Division of Correctional Industries, operates five classes of work programs that provide jobs, training, and work experience for inmates. Each correctional industries worker is estimated to work an average of 1,400 hours annually. The inmates receive wages for their work ranging from \$30 per month for class IV work programs to the prevailing wage for offenders employed in class I jobs.

Under current law, DOC is responsible for establishing deductions to be made from the inmate's wages to contribute to the cost of incarceration and the development of the Correctional Industries Program. In 1993, the provisions on deductions from inmates' wages were amended, effective June 30, 1994. This legislation requires DOC to take deductions from the wages of inmates working in class I or class II jobs, or earning more than minimum wage. After deductions for legal financial obligations and taxes, DOC must deduct 10 percent for the crime victim compensation account; 10 percent for a personal inmate savings account, until the account has a balance of \$950; and 30 percent for the cost of incarceration. A person sentenced to life imprisonment is exempt from the personal inmates savings account deduction, but is subject to a 40 percent deduction for the cost of incarceration.

Legislation passed in 1993 also mandated the expansion of inmate employment in correctional industries by 150 percent--an additional 1,500 inmate employees--by June 30, 2000.

DOC has expressed concern that the deductions required by the 1993 legislation may discourage inmates from working in

correctional industries and impede DOC's achievement of the production goals established under law in 1993.

### **C. PROVISIONS AFFECTING JUVENILES.**

**(1) Curfews and runaways.** Various local jurisdictions have periodically enacted curfew ordinances. The Washington State Supreme Court ruled such an ordinance unconstitutional in 1973 but suggested that curfew ordinances could be constitutional in limited circumstances.

Runaways taken into custody may be returned home, or may be taken to a crisis residential center or to the home of a responsible adult if the child is afraid to go home or the officer believes the child is abused.

A person who harbors a runaway is guilty of a misdemeanor.

**(2) Prosecution of Juveniles As Adults.** The Juvenile Court has jurisdiction over juvenile offenders under age 18. In limited circumstances, the court may transfer a juvenile to adult criminal court for prosecution as an adult if the court holds a hearing and determines that transferring the juvenile is in the juvenile's or community's best interests.

**(3) Juvenile Court and Family Court Jurisdiction.** The Juvenile Court and the Family Court are both part of the Superior Court, but an artificial barrier exists between the courts that prevents the courts from simultaneously considering a variety of issues affecting the same juvenile.

**(4) Juvenile Offender Disposition Provisions.** The juvenile offender disposition code is a complex code that establishes sanctions according to a formula that considers the seriousness of the crime, the juvenile's age and prior criminal history, and the recency of that history.

Some counties have expressed concern that the code does not provide them with sufficient flexibility to place detained juveniles in a variety of custodial settings.

A variety of disposition options exist; however, dispositions may not be deferred and in most cases may not be suspended. Some juveniles may be "diverted" from prosecution in the juvenile system. Critics of diversion claim that juveniles are diverted from prosecution too often, for crimes that are too serious, and that parents and local community members lack opportunities to participate in the diversion process.

A juvenile may be labeled a "minor or first offender" depending on the juvenile's age, the crime charged, and his

or her criminal history. Critics of this category claim that penalties should be based on the seriousness of the crime rather than on the juvenile's age, and that juveniles are considered "minor or first" offenders even when their crimes are not minor and they have committed more than one offense.

An offender who is placed on community supervision or parole has to comply with certain requirements or face sanctions. Apparently, conditions of community supervision or parole do not always include a requirement that the juvenile refrain from committing new offenses.

Some juvenile sex offenders who could be committed to a state institution are eligible for a suspended disposition option which allows them to remain in the community under community supervision. If an offender violates the terms of community supervision, the court may impose up to 30 days in detention for a violation but currently cannot revoke the suspension and commit the juvenile to DSHS to serve the remaining disposition. Critics of this option claim that courts need authority to impose longer periods of confinement as a sanction to encourage offenders to comply with the terms of the suspended disposition.

Because illegal possession of a firearm by a juvenile is only a misdemeanor, the penalty is generally not very severe. Juveniles may be diverted from prosecution in certain cases and may not have to spend any time in detention.

Unlike the adult system, no special provision exists authorizing a prosecutor to file a special allegation if a juvenile or an accomplice commits a crime while armed with a deadly weapon or a firearm. Consequently, no mandatory penalty enhancement exists for juveniles who commit crimes while armed with a firearm.

Juveniles may be ordered to pay restitution to victims. However, because Juvenile Court jurisdiction expires when a juvenile turns age 21, the Juvenile Court lacks authority to force a juvenile to continue to pay restitution past the juvenile's 21st birthday.

Last year, the Legislature enacted a statute implementing some recommendations of a study on racial disproportionality in the juvenile justice system. Prosecutors were not expressly directed to develop prosecutorial filing standards considering the recommendations in the study.

**(5) Administration.**

**Structuring of the Division of Juvenile Rehabilitation.** The state agency responsible for confining and rehabilitating juvenile offenders is the Department of Social and Health Services. The secretary of DSHS is a cabinet-level position, and the secretary has broad authority to create administrative structures within the department, except as otherwise required by law. The secretary of DSHS appoints assistant secretaries to administer the divisions within DSHS. Currently, the assistant secretary for Children, Family and Youth Services (CFYS) has jurisdiction over juvenile rehabilitation; within CFYS, the Division of Juvenile Rehabilitation (DJR) fulfills DSHS's responsibilities for juvenile offenders.

**Warrant Authority.** The Fourth Amendment to the United States Constitution requires that an arrest warrant be issued by a "neutral and detached" magistrate who is capable of determining the existence of probable cause. The Fourth Amendment does not prohibit non-judges from issuing warrants, but the constitution requires severance of the warrant process from activities of law enforcement.

The secretary of the Department of Corrections has narrow warrant-issuing authority. When the secretary grants a furlough to a prisoner, and either the prisoner violates furlough terms or the secretary revokes the furlough, the secretary has the statutory authority to issue an arrest warrant for the prisoner. Similarly, community corrections officers have the authority to cause the arrest without a warrant of offenders who violate terms of their sentences.

**Juvenile Offender Education.** Juvenile offenders who are committed to DJR receive education provided by the school district in which the DJR facility is located. No centralized authority coordinates education for committed juvenile offenders.

**Local Law and Justice Councils.** By statute, every county legislative authority is required to have a local law and justice council. The council includes representatives of the county and local cities, prosecutors, courts, jails and law enforcement. The council develops a local law and justice plan for the county.

**(6) Parental Assessments for Costs of Juvenile Offenders' Confinement.** A statute enacted in 1993 permitted DSHS to assess parents for the cost of confining juvenile offenders. Enforcement difficulties have prevented DSHS from fully implementing the parent-pay policy.

**D. MISCELLANEOUS.**

(1) **Hunter Education Courses.** Juveniles may attend hunter safety and education courses. No specific provision exists concerning the civil liability an owner, operator, employee or volunteer may incur if a juvenile is injured during the course.

(2) **Personal Protection Sprays.** Certain chemical spray devices are commonly marketed and sold as self-defense devices. Although possession of these devices is not illegal under state or federal law, some local jurisdictions have banned private possession of them.

## **PART VI. EDUCATION**

**Conflict Resolution Curricula and Training.** To reduce the level of youth violence, educators and researchers have recommended that schools take a more active role in teaching students how to resolve conflicts without resorting to violence. The teaching of mediation skills is one example shown to be effective. While some teachers are aware of available conflict resolution curricula, many are not. To increase awareness and promote more widespread use of conflict resolution instruction, it has been suggested that educators be provided a summary of available instructional material, and also be provided training in violence prevention strategies.

**School Security.** The 1989 Legislature passed the Omnibus Alcohol and Controlled Substances Act, which modified criminal penalties for drug offenses, amended statutes related to drug investigations, and created several education and treatment programs. The bill also created the Drug Enforcement and Treatment Account and began funding school security monitors from this fund. Existing budgetary provisions do not allow the school security funds to be used for anything other than the hiring of school monitors. It has been recommended that the use of the funds be expanded to include the purchase of metal detectors and other security purposes.

**Student Records.** Current law restricts school personnel from obtaining information in juvenile court records. In addition, juvenile court officials are restricted in accessing school records. School and court officials have argued that having better access to each other's information would allow them to better serve court-involved students.

**School Discipline and Conduct.** Educators and parents have expressed concern that legal and other barriers make it difficult to manage the growing number of disruptive students in public school classrooms. These students often require extra attention and energy, which means that



nondisruptive students often receive less attention and assistance.

It has also been suggested that schools be given clear authority to establish programs and schools in which strict discipline and dress codes are required, including the wearing of uniforms. Such programs, it is argued, would improve the school's educational climate and thereby increase student achievement.

#### **PART VII. EMPLOYMENT**

The Department of Labor and Industries (L&I) is responsible for the adoption and enforcement of work rules that apply to minors under 18 years of age. L&I adopted new minor work rules in July 1993. At that time, L&I agreed to conduct an evaluation of the impact of the adopted work rules on youth employment and school-to-work transition options designed to achieve job readiness. L&I evaluation is scheduled to be completed within 18 months of adoption of the new minor work rules.

The Neighborhood Reinvestment Area Program was created in 1993 to coordinate the efforts and resources of government, business and the community to create an environment in which reinvestment could occur. The Department of Community Development was authorized to designate up to six areas for participation in the program by March 1, 1994.

#### **PART VIII. MEDIA**

**Media, Minors, and Violence.** Many people believe that violence in the media leads to increased violence. Some scientists have concluded that observing violence on television causes violent behavior and that children may be particularly susceptible to violence-related media influences. Many parents and educators believe that children should be protected from media violence.

#### **PART IX. MISCELLANEOUS**

In 1989, the Legislature passed the Omnibus Alcohol and Controlled Substances Act. That act imposed taxes on sales of wine, beer, spirits, cigarettes, and carbonated beverages and syrup. Retailers who sell pop may notify the public that part of the cost of the pop is attributable to the tax. Those taxes are due to sunset July 1, 1995. Revenues collected from those taxes are deposited in the Drug Enforcement and Education Account and may only be used to fund services and programs implemented in the 1989 act. If the Legislature wants to continue those taxes, the Legislature must comply with the provisions of recently

enacted Initiative 601. The validity of that initiative is currently being challenged in the Washington State Supreme Court. If the court upholds the validity of Initiative 601, any extension of the taxes must be submitted to the voters for their approval.

**Summary:**

**PART I. INTENT**

The Legislature finds that the increasing violence in our society is cause for great concern about the immediate health and safety of our citizens and social institutions. Youth violence is increasing at an alarming rate, and young people between the ages of 15 and 24 are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The Legislature finds that violence is abhorrent to the aims of a free society and cannot be tolerated. State efforts at reducing violence must include changing criminal penalties, reducing the unlawful use and access of firearms, increasing educational efforts to encourage non-violent means for resolving conflicts, and allowing communities to design their prevention efforts.

The Legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of this legislation to:

- (1) Prevent acts of violence by encouraging changes in social norms and individual behaviors--such changes have been shown to decrease the risk of violence;
- (2) Increase the severity and certainty of punishment for juveniles and adults who commit violent acts;
- (3) Reduce the severity of harm to individuals when violence occurs;
- (4) Empower communities to focus their concerns and allow them to control the funds dedicated to empirically-supported violence prevention efforts in their region; and

- (5) Reduce the fiscal and social impact of violence on our society.

## **PART II. PUBLIC HEALTH**

**Data Collection.** The Department of Health (DOH) is designated as the agency for the coordination of all information relating to violence and other intentional injuries. DOH is directed to develop comprehensive rules for the collection and reporting of data relating to incidents of violence and associated risk factors. The data collection and reporting rules shall be used by any entity required to report such data.

DOH will provide any necessary data to the local health departments for use in the planning or evaluation of community networks. DOH shall publish periodic reports on intentional injuries and their associated risk and protective factors.

**Program Standards and Outcome Measures.** The public health improvement plan created by the Health Services Act of 1993 shall include:

- (1) Minimum standards for state and local public health assessment, policy development, and assurance regarding social development to prevent violence and other public health threats;
- (2) Measurable risk factors that may lead to violence, teen pregnancy and parentage, dropping out of school, drug abuse, suicide, and other health problems;
- (3) Data collection and analysis standards for use by the local public health departments, the state council, and the local community networks (the standards shall ensure consistent and interchangeable data); and
- (4) Recommendations to reduce statutory barriers affecting data collection or reporting.

**Rules Established.** DOH shall establish, by rule, standards for local health departments to use in assessment, policy development and assurance regarding social development to prevent health problems caused by social, educational or behavioral factors, such as: violence and delinquency; substance abuse; teen pregnancy and parentage; suicide attempts; dropping out of school; and child abuse and neglect. The standards shall be based on the standards in the public health improvement plan.

**Voluntary Violence Screening.** DOH shall develop a suggested reporting format for use by the print, television and radio media in reporting their voluntary violence reduction efforts. The Legislature encourages the use of a statewide voluntary, socially-responsible policy to reduce the emphasis, amount and type of violence in all public media. Each area of the public media may carry out the policy in whatever manner it deems appropriate.

**Evaluation.** The standards shall be used by the Legislative Budget Committee for evaluating the outcome of the community networks' plans and efforts.

### **PART III. COMMUNITY NETWORKS**

**Definitions.** "At-risk" children and youth are those who risk significant loss of social, educational, or economic opportunities. At-risk behaviors include violence and delinquency, substance abuse, teen pregnancy and male parentage, suicide attempts, and dropping out of school. Children and youth at-risk include those who are victims of violence, abuse, neglect and those who have been removed from the custody of their parents.

**Family Policy Council.** The Family Policy Council is expanded to include a representative of a county, city, town, Indian tribe, school district, children's commission, law enforcement agency, Superior Court, private agency service provider, parks and recreation program, representatives of community organizations not associated with the delivery of services, and a chief executive officer from two major Washington corporations.

**Community Public Health and Safety Networks.** Community public health and safety networks are created to reduce the number of children and youth who are at risk.

The community network membership is composed of 23 people. Thirteen of the members shall be citizens with no direct fiduciary interest in health, education, social service or criminal justice organizations. Citizen members of existing commissions, boards, and organizations within the network shall be considered for membership in the community network. The remaining members shall represent local government, tribes, law enforcement, courts, recreation, social service, education, health, employment and nonsecular organizations.

The networks shall:

- (1) Review local public health data relating to at-risk children and youth;

- (2) Prioritize the risk factors and protective factors to reduce the likelihood of their children and youth being at risk (the priorities shall be based upon the local public health data and shall utilize the data standards established by DOH);
- (3) Develop long-term community plans to reduce the number of at-risk children and youth; set definitive, measurable goals, based upon DOH standards; and project desired outcomes;
- (4) Distribute to local programs funds that reflect the locally established priorities;
- (5) Meet outcome-based standards for determining success; and
- (6) Cooperate with DOH and local boards of health to provide data and determine outcomes.

Each community network shall select a public entity as the lead administrative and fiscal agency. The public entity may subcontract some functions to another public or non-profit organization.

**Community Network Planning Options.** The plans may include funding of community-based home visitor programs, at-risk youth job placement and training programs, employment assistance, education assistance, counselling and crisis intervention, youth leadership development and technical assistance to grant applicants.

**Planning Grants and Assistance.** All networks are eligible to receive planning grants and technical assistance on January 1, 1995. After receiving the planning grant, a region will be given one year to submit its plan. Beginning July 1, 1995, up to one-half of the networks will be eligible to receive funds for prevention and early intervention programs. The networks that did not receive the initial grants are eligible, upon approval of their plans, to receive such funds on January 1, 1997.

**Council's Duties.** The council's duties include:

- (1) Determining the boundaries for the networks by July 1, 1994 (there is a presumption that the network boundaries should not divide a county, or encompass an area with a population of less than 40,000 people);
- (2) Developing a training program to assist communities in creating community networks;

- (3) Approving the structure, purpose, goals and plans of each community network;
- (4) Identifying prevention and early intervention programs and funds, in addition to those set forth in the bill, that could be transferred to the community networks;
- (5) Rewarding networks that reduce state-funded out-of-home placements;
- (6) Reviewing the implementation of this act and making recommendations to the Legislature; and
- (7) Assisting the Governor in requesting any necessary federal waivers and coordinating any necessary efforts to make changes in federal law.

**Treatment Programs.** The council may, by a simple majority, remove from the grants any funds used for treatment programs.

**Community Plan Approval Process.** The council shall disburse funds to a community network only after a comprehensive community plan has been prepared and approved by the council. In approving the plan, the council shall consider whether the network:

- (1) Promoted input from the widest practical range of agencies and affected parties;
- (2) Reviewed the indicators of violence data compiled by the local public health departments and incorporated a response to those indicators in the plan;
- (3) Obtained certification of its plan by the largest health department in the region, ensuring that the plan met DOH minimum standards for assessment and policy development relating to violence prevention;
- (4) Included a specific mechanism of data collection and transmission based on the rules established by DOH;
- (5) Isolated only one or a few of the elements of the cause and cure of violence in the plan to the exclusion of others;
- (6) Committed to make measurable reductions in the number of out-of-home placements, at-risk children and youth, and reductions in at least three of the following areas: violent criminal acts by juveniles, substance abuse, teen pregnancy and male parentage, teen suicide attempts or the school drop-out rate.

The community network may demonstrate that a specific program, or a part of a program, should not have its funding decategorized and block granted to the network.

**Restricted Funds.** All funds transferred to the community networks from the community mobilization and drug/alcohol programs shall be used only for those purposes until July 1, 1997.

**Federal Waivers.** The council shall assist the Governor in requesting any necessary federal waivers or changes in federal law.

**Regulation of Programs.** No state agency may require any program requirements for the granted funds, except as necessary to meet federal funding standards. None of the funds which are granted to the community networks shall be considered new entitlements.

**Office of Financial Management.** The Office of Financial Management (OFM) shall develop the fund distribution formula for determining allocations to the community public health and safety networks by December 20, 1994. OFM shall reserve 5 percent of the funds for the purpose of rewarding community networks that show exceptional reductions in the number of youth placements in state-funded out-of-home settings.

**Group Homes.** The Secretary of DSHS and the Insurance Commissioner shall conduct a study regarding liability issues and insurance rates for private nonprofit group homes.

DSHS will make its nonconfidential evaluation and research materials on group homes available to group home contractors.

#### **PART IV. FIREARMS AND OTHER WEAPONS**

Persons prohibited from possessing pistols may not possess any type of firearm. It is a class C felony for any person prohibited from possessing a firearm to do so, and it is a class C felony to deliver a firearm to someone prohibited from possessing one.

#### **FIREARMS AND JUVENILES.**

It is a class C felony for juveniles under the age of 18 to possess firearms unless an enumerated exception applies. The exceptions include: safety training, target shooting or practice at an established range; engaging in an organized competition; hunting with a valid license; traveling to and

from such activities with an unloaded firearm; being on family property with parental permission; military service; and some situations of lawful use of deadly force. Also, there is an exception for juveniles at least 14 years old with hunter education certificates, who may lawfully possess firearms in an area where it is legal to discharge firearms. Any juvenile over the age of 14 without a hunter education certificate, any juvenile under the age of 14, and any juvenile using a pistol must have parental supervision for the exception to apply.

There is no exception for emancipated minors.

#### **FIREARMS AND OTHER PERSONS.**

**Persons Disqualified from Possessing Firearms.** Persons convicted of a "serious offense" (defined to include a crime of violence and several additional offenses), a domestic violence or harassment offense, or a felony in which a firearm is used or displayed, are prohibited from possessing firearms. In addition, persons who have been voluntarily committed for mental health treatment in excess of 14 continuous days, or who have been convicted on three occasions within five years of operating a motor vehicle or vessel while under the influence of alcohol or drugs, may not possess a firearm until their right to do so has been restored.

**Restoration of Rights.** A person who is prohibited from possessing a firearm because of commitment for mental health treatment, either voluntarily or involuntarily, may petition a court to have his or her right to possess a firearm restored. The petition must include information specified in the act, and the petitioner bears the burden of proving the circumstances resulting in the commitment no longer exist and are not reasonably likely to recur. The requirement that DSHS develop rules for an approval process is removed.

A person prohibited from possessing a firearm because of three convictions of driving a motor vehicle or operating a vessel while under the influence of alcohol or drugs may, after five continuous years without further convictions for any alcohol-related offense, petition a court of record to have the right to possess a firearm restored.

**Delivery of Firearms.** The delivery statute is amended to remove undefined terms and to make it a class C felony to deliver a firearm to anyone for whom it is a class C felony to possess a firearm.



**Carrying Firearms.** No one may carry a firearm unless the firearm is unloaded and enclosed in an opaque case or secure wrapper, or an exception applies. The exceptions are similar to the circumstances in which a person under 18 years of age may possess a firearm. In addition, there are exceptions for persons who are licensed to carry concealed pistols, persons with unloaded firearms secured in place in a vehicle, persons carrying firearms to and from vehicles for the purpose of repair, and law enforcement officers. A city, town or county may enact an ordinance exempting itself from this "case and carry" rule.

#### **CONCEALED PISTOL LICENSES.**

Because a person must be 21 years of age to qualify for a concealed pistol license, a person at least 18 years of age, but under the age of 21, may possess a pistol only at work, at home, on property he or she owns, or under other circumstances in which one of the exceptions for juveniles applies.

**Applications.** The current list of crimes for which a conviction will disqualify a person for a concealed pistol license, unless his or her rights are restored, is replaced by a reference to a list of crimes against a child or other person.

The list of statutes providing for court orders or injunctions that will make persons subject to such orders or injunctions ineligible for a concealed pistol license is expanded.

An applicant for a concealed pistol license must apply: (1) to the municipality or county in which the applicant resides, if the applicant resides in a municipality; (2) to the county in which the applicant resides, if the applicant resides in an unincorporated area; or (3) anywhere in the state if the applicant is a nonresident.

An issuing authority cannot refuse to accept completed applications for concealed pistol licenses during normal business hours.

The issuing authority must check the national crime information center, Washington State Patrol and DSHS electronic data bases, and other resources as appropriate, to determine whether an applicant is eligible for a concealed pistol license.

If an issuing authority discovers a license was issued in error, the authority must revoke the license and require the applicant to transfer lawfully, within 14 days of

revocation, any pistol acquired while the applicant was in possession of the license.

A person who knowingly makes a false statement concerning citizenship or identity on a concealed pistol license application is guilty of a gross misdemeanor under the false swearing statute. In addition, the person is permanently ineligible for a concealed pistol license.

DOL must make information regarding issued concealed pistol licenses available to law enforcement and corrections agencies in an on-line format.

**License Revocation.** A license-issuing authority is to revoke the license of a person who was: (1) ineligible for the license at the time of application; (2) convicted of an offense making the person ineligible to possess a firearm; (3) committed for mental health treatment so that the person is prohibited from possessing firearms; (4) convicted of a third violation of the firearms and dangerous weapons statutes within five years; (5) ordered to forfeit a firearm; (6) convicted of illegally possessing a firearm on school grounds; or (7) convicted of carrying or displaying a firearm or other dangerous weapon in a manner intentionally intimidating or warranting alarm. A person who purchases a pistol while in possession of a mistakenly issued license, and who is ineligible to possess a pistol, must transfer ownership of the pistol within 14 days of license revocation.

**Licensing Fees.** All of the licensing fees are increased. An original license fee is increased from \$23 to \$50, to be distributed as follows: \$15 to the state general fund, \$10 to the agency taking the fingerprints, \$15 to the issuing authority and \$10 to the firearms range account. A renewal license fee is increased from \$15 to \$50, with \$20 to the state general fund, \$20 to the issuing authority and \$10 to the firearms range account. The late penalty is increased to \$20, with \$10 to the state wildlife fund and \$10 to the issuing authority.

#### **FIREARMS DEALERS.**

A dealer is defined as a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license. Collectors making occasional sales are excluded.

**Deliveries to Purchasers.** The waiting period before a dealer can deliver a pistol when the purchaser does not have a valid concealed pistol license is changed from five

consecutive days to five business days, to correspond with the federal waiting period.

The law enforcement agency of the jurisdiction in which the purchaser resides is expressly required to check the national crime information center, Washington State Patrol and DSHS electronic data bases, and other resources as appropriate, to determine whether an applicant is eligible to possess a pistol. Once the national instant criminal background check system is operable, a dealer is required to rely on it for criminal background checks, but a law enforcement agency still is required to check the DSHS data base for mental health commitments.

A dealer who sells or delivers a firearm to a person whom the dealer has reasonable cause to believe is ineligible to possess one is guilty of a class C felony and will have his or her dealer's license permanently revoked.

A person who knowingly makes a false statement concerning identity or eligibility on a purchase application is guilty of a gross misdemeanor under the false swearing statute.

Like concealed pistol applications, purchase applications, transfer records, and information obtained concerning mental health histories are exempt from public disclosure.

DOL is authorized to keep copies of concealed pistol license applications, alien firearm license applications, purchase applications, and records of pistol transfers.

**Licensing.** A person engaged in selling firearms or ammunition, who holds or is required to hold a federal license, must obtain a dealer's license and register with the Department of Revenue. The person must specifically be licensed to sell pistols, other types of firearms, or ammunition, and may be licensed to sell all three. DOL is to provide a single application for all types of dealer's licenses, and a single license form which is to indicate the type or types of licenses granted. The total annual license fee is \$125, regardless of how many types of dealer's licenses are granted to the applicant. DOL is required to report to ATF dealers who do not comply with these requirements and whose gross proceeds from sales fall below a specified level. However, in reporting to ATF, DOL is not to specify whether a particular dealer has failed to comply with licensing requirements, registration requirements or has low gross sales proceeds.

To apply for a dealer's license, an applicant must have a federal license and must undergo fingerprinting and a background check. A dealer must be eligible for a concealed

pistol license, even if he or she does not have one. A dealer also must require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. Before being permitted to sell a firearm, an employee must be eligible to possess a firearm and must not have been convicted of a crime that would disqualify the employee for a concealed pistol license. In addition, every employee selling firearms must comply with the requirements concerning purchase applications and restrictions on delivery of pistols that are applicable to dealers.

The dealer must post his or her license in the area of the store where firearms are sold. A dealer may conduct business from a temporary location for a gun show and must post his or her license at that temporary location.

#### **CONFIDENTIALITY.**

A signed application to purchase a pistol or for a concealed pistol license constitutes an authorization to DSHS, mental health institutions, and other health care facilities to release to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to possess a pistol or for a concealed pistol license.

Information received by DOL, a license-issuing authority, a law enforcement agency or a court, concerning a person's mental health history may only be disclosed in compliance with the Public Disclosure Act.

The Public Disclosure Act is amended to make exempt from public disclosure, with some exceptions: applications for concealed pistol licenses, alien firearm licenses, or to purchase a pistol; records of pistol sales; and mental health information. Law enforcement and corrections agencies may see or receive copies of the information. A person who is the subject of mental health information and who wishes to see the information must seek its disclosure directly from the health care provider. However, a person is entitled to see or receive copies of his or her own applications for a concealed pistol license, for an alien firearm license, or to purchase a pistol, and records of his or her pistol purchases. The general public may receive information, such as for research or statistical purposes, that does not identify the name, address or Social Security number of any person who is the subject of the information.

#### **PREEMPTION.**

Local governments may designate, through zoning, where firearms may be sold but, with one exception, may not treat

a business selling firearms more restrictively than other businesses within the same zone. Local governments may require the location of storefront businesses advertising firearms for sale to be at least 500 feet from schools.

#### **SCHOOL GROUNDS.**

It is illegal to possess firearms or other dangerous weapons on school premises, school-provided transportation or areas of facilities while being used exclusively by public or private schools.

The exceptions for weapons in vehicles apply only to non-students at least 18 years of age.

Any student who violates the prohibition against firearms on school grounds shall be expelled for an indefinite period of time.

#### **JUVENILE DRIVING PRIVILEGES.**

The driving privilege of a juvenile who illegally possesses a firearm in a vehicle, or who commits an offense while armed with a firearm, if that offense involves the use of a vehicle, are to be revoked for one year for a first offense. Driving privileges are to be revoked for two years for second or subsequent offenses. If a juvenile also commits other offenses for which driving privileges are revoked, revocation periods are to run consecutively.

#### **MISCELLANEOUS PROVISIONS.**

**Immunity.** Governmental and private entities and their employees, acting in good faith, are immune from liability for: (1) preventing or failing to prevent pistol sales; (2) issuing or failing to issue concealed pistol license; (3) revoking or failing to revoke concealed pistol licenses; and (4) for errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license.

A person may apply to a court for a writ of mandamus directing an issuing authority to issue a concealed pistol license wrongfully refused, directing a law enforcement agency to permit a pistol purchase wrongfully denied, or directing erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or in the wrongful denial of a purchase application be corrected. The court is to provide an expedited hearing on the suit. A person who prevails against a public agency in such a suit is entitled to reasonable attorney fees and costs.

**Restricted Firearms.** A person, other than a law enforcement officer or member of the military, may possess machine guns, short-barreled shotguns, or short-barreled rifles only if in compliance with federal law. Both law enforcement officers and members of the military must be engaged in official duties to possess lawfully such firearms. A grandfather provision is included for law enforcement officers and members of the armed forces who acquired such firearms prior to the effective date of this restriction.

Washington firearm manufacturers may produce and repair machine guns, short-barreled shotguns and short-barreled rifles. Manufacturers also may sell such firearms to domestic governmental law enforcement agencies and, if in compliance with federal law, to foreign countries. Employees of the manufacturers must undergo fingerprinting and background checks.

**Firearm Range Training and Practice Facilities.** A local government may close a firearm range training and practice facility only if the facility is replaced with another facility of at least equal capacity. More than one closed facility may be replaced with a single facility, if the capacity of the replacement facility is at least as large as the combined capacities of the closed facilities.

The replacement facility must be open for use within 30 days of the closure of the replaced facility or facilities and must be available for use by law enforcement personnel and the general public to the same extent as the closed facility or facilities.

In addition to persons with concealed pistol licenses and Washington hunting licenses, entities receiving matching funds or grants from the firearms range account are required to allow members of the general public who are enrolled in a firearm safety class to use the facilities.

**Other Provisions.** Conflicting statutes are amended or repealed, the statute held unconstitutional by the Washington State Supreme Court is repealed, and numerous additional changes are made.

**Surrender of Weapons When a Protection Order Is Entered.** When a court issues a protection order restraining a person from contacting or harming another person, the court is expressly authorized to require a party to surrender a firearm, other dangerous weapon, and a concealed pistol license, and may prohibit a party from obtaining or possessing a firearm or a concealed pistol license. The new provision applies to a variety of statutes which authorize courts to issue protection orders.

**PART V. PUBLIC SAFETY**

**A. CRIMES.**

A new crime of theft of a firearm is created. A person is guilty of theft of a firearm if the person steals a firearm or possesses, delivers or sells a stolen firearm. Theft of a firearm is a class C felony. The crimes of theft and possession of stolen property are amended to delete reference to firearms. See Part IV of the act.

**B. PROVISIONS AFFECTING ADULT OFFENDERS.**

**(1) Adult Criminal Penalties.**

**(a) Theft of a Firearm.** The new crime of theft of a firearm is ranked at seriousness level V. A first-time offender convicted of a crime at seriousness level V has a standard range of 6 to 12 months in jail. If certain taxes are referred to the voters in November under Initiative 601 and if the voters do not vote for those taxes, then this provision will expire on July 1, 1995. (See Part IX for a description of the taxes.) If this section expires, the new crime of theft of a firearm will be an "unranked" felony, which means that the standard range for the offense is 0 to 12 months in jail.

**(b) Reckless Endangerment in the First Degree.** Reckless endangerment in the first degree is raised to a class B felony and to seriousness level V. These new provisions expire July 1, 1995 and current law will be restored if the voters do not approve the taxes.

**(c) Deadly Weapon Enhancements.** If an adult offender commits any violent crime while armed with a deadly weapon, the offender must serve an additional 12 months in confinement. This new provision does not change the additional time imposed under current law for specified violent offenses. This provision also expires if the voters do not approve the taxes, and current law will be restored.

**(d) Earned Early Release Credits.** DOC may condition earned early release credits on an inmate's participation in literacy training, employment skills training, or anger management courses.

**(2) Correctional Industries.** DOC is required to redevelop the formula for deductions from offender wages. For inmates working in class I work programs and inmates earning at least minimum wage, the formula must include minimum deductions of 5 percent for the crime victims compensation

account, 10 percent to a DOC personal inmate savings account, and 20 percent for the cost of incarceration. For inmates working in class II work programs, the deductions are the same except that the minimum deduction for the cost of incarceration is 15 percent. Five percent must be deducted from the wages of inmates working in class III correctional industries for the crime victims compensation fund. For class IV work programs, the formula must include a 5 percent deduction for the cost of incarceration. Lifetime offenders are also required to have their wages deducted according to the new deduction formula.

Funds in DOC's personal inmate savings account may be made available to the inmate prior to release only if the secretary determines that an emergency exists for the inmate.

The management of class I, class II, and class IV industries may establish an incentive payment for offender workers based on productivity. The incentive is to be paid separately from wages or gratuities, and is not subject to the deduction for cost of incarceration.

If the offender's earnings are subject to garnishment for support enforcement, the deductions for crime victims' compensation, savings, and the cost of incarceration are calculated on the net wages after taxes, legal financial obligations, and the amount subject to garnishment are taken out.

The Correctional Industries Board of Directors is required to develop a strategic yearly marketing plan that is consistent with and works toward the goals established in the six-year phased expansion of class I and class II industries established by statute. The plan must be presented to the appropriate legislative committees by January 17 of each year until the correctional industries expansion goals have been achieved.

### **C. PROVISIONS AFFECTING JUVENILES.**

**(1) Curfews and Runaways.** The Legislature grants express authority to cities and towns to enact curfews. Adopted ordinances must not contain any criminal penalties. A law enforcement officer may take a child into custody if the child is violating the curfew. If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored, the officer must take the child into custody. The crime of harboring a minor is raised to a gross misdemeanor. Under certain circumstances, the officer may take a child who is in custody to the home of an adult extended family member. "Extended family members" are defined. DSHS must



maintain a toll free hotline to assist parents of runaway children. The Criminal Justice Training Commission must ensure that law enforcement agencies have manuals describing statutes relating to runaways.

**(2) Prosecution of Juvenile Offenders As Adults.** A juvenile offender will be prosecuted as an adult if the juvenile is 16 or 17 years old and the alleged offense is: (a) a serious violent offense, or (b) a violent offense and the juvenile has a certain criminal history. A hearing will not be held. A juvenile subject to adult court jurisdiction may be detained in a county juvenile detention facility pending resolution of the case. These new provisions will expire if the voters do not approve the taxes.

**(3) Juvenile Court and Family Court Jurisdiction.** The Family Court will have concurrent original jurisdiction with the Juvenile Court over cases involving juveniles if the Superior Court judges of a county authorize concurrent jurisdiction.

**(4) Juvenile Offender Disposition Provisions.** A number of changes are made to disposition standards for juvenile offenders.

New disposition options are created: A juvenile offender basic training camp is created as a placement and disposition option for certain juvenile offenders committed to DSHS. Some juveniles may be eligible for deferred adjudication depending on the juvenile's crime and prior criminal history. The dispositions for middle offenders may be suspended and, if the suspension is revoked, the court may order execution of the entire remaining disposition. The definition of "detention facility" is expanded to provide the counties with greater flexibility in placing detained juveniles. A clarification is added that judges may not directly place juveniles in any particular facility; rather, the judge will commit juveniles to the county or the state, and the administrators of the juvenile offender programs will determine the appropriate placements for the juveniles. A technical correction is made deleting reference to "detention group homes" and "detention foster homes" which refer to terms that were initially defined in a 1992 act but which were ultimately deleted in that act.

Eligibility for diversion is restricted, and new requirements may be placed on juveniles who are diverted. Diversion units must consult with the offenders' parents when entering into the diversion contract. Community accountability boards may act as diversion units.

A juvenile may be a minor or first offender regardless of the juvenile's age. However, juveniles who commit felonies may no longer be considered minor or first offenders.

New mandatory conditions of community supervision (probation) must be imposed, including conditions that the juvenile attend school and refrain from committing new offenses. Conditions of parole must also require juveniles to refrain from committing new offenses and to refrain from possessing firearms or using deadly weapons. If a juvenile violates parole by possessing a firearm or by using a deadly weapon, DSHS must modify parole and confine the juvenile for at least 30 days. This provision regarding parole violators will expire July 1, 1995, if the voters do not approve the taxes referred to them for approval. If the juvenile commits a new offense while on parole, the current offense points for the juvenile's offense must be increased by a factor of 5 percent. This provision will also expire if the taxes are not approved by the voters.

If a juvenile sex offender who receives a suspended disposition violates conditions of the suspended disposition, the court may impose a penalty of up to 30 days' confinement for violating the disposition, and the court may also order execution of the remaining portion of the disposition.

New penalties are established for some firearm offenses. If a juvenile is adjudicated of the crime of possessing a firearm, the juvenile must serve a minimum of 10 days in confinement. The prosecutor may file a special allegation alleging that the juvenile or an accomplice committed a violent offense and certain non-violent offenses while armed with a firearm. If the juvenile is found to have committed one of the designated crimes while armed with a firearm, the court must impose 90 days in confinement in addition to the penalty imposed for the underlying offense. The penalty provisions for possession of a firearm and committing a crime while armed with a firearm will expire July 1, 1995, if not approved by the voters.

Juvenile Court jurisdiction may be extended until the respondent is 28 years old for purposes of collecting restitution ordered in a disposition for a juvenile offense.

Prosecutors must develop prosecutorial filing standards considering the recommendations of the racial disproportionality study conducted in 1992.

##### **(5) Administration of Juvenile Justice.**

**Assistant Secretary Position for DJR.** The bill requires the secretary of DSHS to appoint an assistant secretary to administer the department's juvenile rehabilitative responsibilities. The bill imposes specific statutory responsibilities on the assistant secretary, including: