

# HOUSE BILL REPORT

## HB 1710

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**As Reported by House Committee On:**  
Juvenile Justice & Family Law

**Title:** An act relating to custodial assault at juvenile rehabilitation facilities and institutions.

**Brief Description:** Requiring that custodial assaults at juvenile rehabilitation facilities and institutions be reported to law enforcement.

**Sponsors:** Representatives Upthegrove, Dickerson, Kagi, Delvin, Pettigrew, Chase and Kenney.

**Brief History:**

**Committee Activity:**

Juvenile Justice & Family Law: 2/18/03, 2/27/03 [DPS].

**Brief Summary of Substitute Bill**

- Requires the Juvenile Rehabilitation Administration to establish rules relating to custodial assaults and to report custodial assaults to local law enforcement.

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### HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Delvin, Ranking Minority Member; Carrell, Eickmeyer, Hinkle and Upthegrove.

**Staff:** Sonja Hallum (786-7092).

**Background:**

The Juvenile Rehabilitation Administration (JRA) is a division of the Department of Social and Health Services (DSHS). The JRA operates five secure residential corrections facilities which house youthful offenders from throughout the state. There are three institutions, one forestry camp, and a basic training camp. These facilities offer basic education, vocational training, health care, offense-specific treatment, and recreational programs.

The county juvenile courts commit the most serious offenders in Washington to the JRA.

The JRA clients have either been adjudicated for at least one violent offense, or a large number of various offenses.

In Washington, it is a crime to commit an assault upon a corrections officer. A person is guilty of a custodial assault if he or she assaults a full or part-time staff member or volunteer, educational personnel, personal service provider, vendor or agent, or community corrections officer, at any corrections institution or detention facility, who is performing official duties at the time of the assault. Behavior which would be classified as a gross misdemeanor assault may be classified as a Class C felony assault when the assault is inflicted upon a corrections officer.

Washington recognizes three definitions of assault: (1) an attempt, with unlawful force, to inflict bodily injury upon another; (2) an unlawful touching with criminal intent; and (3) putting another in apprehension of harm whether or not the actor intends to inflict or is incapable of inflicting that harm. Under this definition, a wide range of intentional behaviors may constitute an assault.

The JRA does not currently have a uniform written policy defining what behaviors would constitute an assault and must be reported to law enforcement.

If an employee of the DSHS, the Department of Natural Resources, or the Department of Veterans Affairs is assaulted by a resident, patient or juvenile offender, some of his or her costs attributable to the assault may be reimbursed. Under the statute authorizing reimbursement an assault is defined as an "unauthorized touching of an employee by a resident, patient, or juvenile offender resulting in physical injury to the employee."

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**Summary of Substitute Bill:**

Requires the JRA to establish rules related to custodial assaults which are consistent with the statute regarding the reimbursement of costs for assaults on state employees and requires the JRA to report custodial assaults to local law enforcement.

**Substitute Bill Compared to Original Bill:**

The original bill requires the JRA to adopt rules that state what constitutes a custodial assault and to report all custodial assaults to law enforcement.

The substitute requires the JRA to develop rules relating to custodial assaults which are consistent with the statute regarding reimbursement for the costs for assaults on state employees, and that custodial assaults, under the statute defining custodial assaults, are reported to law enforcement.

**Appropriation:** None.

**Fiscal Note:** Requested on February 17, 2003.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The "use of force" standard the JRA has adopted is identical to what the United States Constitution accepts and what law enforcement accepts. When we are dealing with the same type of issues as law enforcement, and they choose not to comply and we must physically restrain them, and if we are injured we want that to be considered an assault. Not everything constitutes an assault that needs to go to trial, but we need to define what is an assault. Employees at the JRA facilities are feeling as though not enough is being done. The problem is continuous and not isolated. Injuries are escalating to the point of being life-threatening. Management is not stepping up to the plate. The situation is really dangerous. This is not intended to be an indictment against the JRA. We are concerned about discretion. Decisions are not handled evenly. The bill will require the JRA to develop how assaults will be handled once they occur and the uniform reporting will bring more accountability to youth.

**Testimony Against:** This is a managerial problem. The JRA should adopt rules to say what constitutes an assault. Part of the problem is that the JRA doesn't take its employees seriously. The JRA does take its employees seriously and sometimes will advocate for more serious charges if warranted. The JRA continues to work with local law enforcement to determine the threshold as to what constitutes an assault. If there is any question, it is referred to law enforcement. Any individual may press charges. Custodial assault is already in the statute.

**Testified:** (In support) Representative Upthegrove, prime sponsor; Victoria Matlock and Patty Campbell, Juvenile Rehabilitation Administration; and Dennis Eagle, Washington Federation of State Employees.

(With concerns) David Griffith and Tom Quinn, Juvenile Rehabilitation Administration; and Sherry Appleton, Washington Defenders Association.