

SENATE BILL REPORT

SB 6511

As of February 2, 2010

Title: An act relating to gang and hate group activity on school grounds and at school activities.

Brief Description: Regarding gang and hate group activity at schools and school activities.

Sponsors: Senators Hobbs, King, Marr, Shin, Rockefeller and Kline; by request of Superintendent of Public Instruction.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/01/10.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Juliana Roe (786-7438)

Background: In 2007 the Legislature directed the Office of the Superintendent of Public Instruction (OSPI) to convene a task force to examine how gangs are affecting school safety and to recommend methods to prevent and eliminate gangs in schools, gather intelligence on gangs, and share information about gangs. In 2008 the task force made seven recommendations to the Legislature. Two of the recommendations included revising the school definitions of gang and gang activity; and mandating districts to adopt a policy to prevent gang activity in school facilities.

Under current law, a student may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds. Gang is defined as a group which (1) consists of three or more persons; (2) has identifiable leadership; and (3) regularly conspires and acts in concert mainly for criminal purposes.

Current law also provides that a district may reject applications from non-resident students whose disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership, or if the student has been expelled or suspended from a public school for more than ten consecutive days. The district must provide applicants written notice of approval or denial in a timely manner. Rejections must include the reasons, and the right to appeal.

Summary of Bill: Each school district board of directors must enact antigang policy and associated procedures, or modify an existing policy, by September 1, 2011. The antigang

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policy must include prohibitions on criminal street gang and hate group activity on school property and school vehicles, at all school activities.

OSPI must convene a work group to develop rules, definitions, guidance, and model policies regarding gangs and hate groups. The results of the work group must be reported to the Legislature by December 1, 2010.

The Washington State School Directors' Association and OSPI, in collaboration with the task force members, must develop model school policies and procedures by January 1, 2011.

School districts may reject applications from non-resident students on grounds of criminal street gang or hate group membership, or activity that raises significant concerns for safety. Applications cannot be rejected solely because the student has been expelled or suspended for more than ten consecutive days. There must also be evidence that admission of the student would present a significant risk of disruption of the educational environment or significant concern for staff or student safety.

Districts accepting applications from non-resident students for admission to an online program may not deny a non-resident application on any of the previously mentioned bases unless the program regularly requires the presence of the student on school property and there is a significant risk of disruption of the educational environment, or a significant concern for staff or student safety caused by the student's presence. Written notification of approval or denial must be provided in a timely manner not to exceed five school business days from receipt of the application.

A student may be suspended or expelled if the student is a member or associate of a criminal street gang or member of a hate group, and knowingly engages in gang or hate group activity on school grounds or while engaged in any school-sponsored activity.

A criminal street gang means: (1) an ongoing organization, association, or group of three or more persons, formal or informal; (2) having a common name or identifying sign or symbol; (3) having one of its primary activities be the commission of criminal acts; and (4) whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity.

A criminal street gang member means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

Gang activity means any act that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons: (1) to gain admission prestige or promotion within a gang; (2) to increase or maintain the gang's size, prestige, dominance, or control in any geographical area; (3) to exact revenge or retribution for the gang or any member of the gang; (4) to obstruct justice, or intimidate or eliminate any witness against the gang or its members; (5) to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its

reputation, influence, or membership; or (6) to provide the gang with any advantage in, control, or dominance over any criminal market sector.

Appropriation: None.

Fiscal Note: Requested on January 15, 2010.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The rise of gangs in school is a side of education we do not want to hear about. We often set education policy and standards to help kids learn, but we also have to discuss the public safety aspect of education. Gangs and hate groups are a growing epidemic in Washington State in rural and urban settings. Students are intimidated and fearful of gangs. Drugs and violence are creeping into the schools. More students are bringing weapons to school in order to defend themselves. Gangs in schools divert attention, that should be focused on education by teachers and students, on how to keep students safe. This is not a new problem, but a growing problem. Having statewide consistency in gang policies will be beneficial to students. Inconsistency leads to peoples' due process rights being trampled. One concern is that at this point there are no funds to implement prevention and intervention programs.

Allowing students to take online learning classes, even if they are in a gang, is appropriate as no students are throw-away students. Even gang members should continue learning.

CON: This bill will not solve the gang problems. It will impact minorities disproportionately. You should not exclude children from school in an unconstitutionally, overbroad manner. There are also concerns that an individual's constitutional right to free speech may be infringed upon by passing this bill.

If you create a work group, you should think about including public defenders who come into contact with many of these youths.

OTHER: Gang violence will not be solved with more restrictions. Rather, the root of the cause is the environment in which students exist on a day to day basis. There should be mentoring programs or other support systems for those children with parents who are drug abusers or alcoholics because if these children have no one to turn to, they will eventually turn to gang life.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Jessica Ubachs, Ryan Snell, Legislative Youth Advisory Council; Tyson Vogeler, OSPI; Joe Pope, AWSP; Shelby Langdon, Wahluke School District; Deputy Lazaro Sanchez, Grant County Sheriff's Department and Wahluke School District; Heather Haste-Ulery, Associate Superintendent of Wahluke School District; Arturo Arellano, Simon Sampson, Community Safety Network; Tom Brandt, citizen; Kim Howard, PTA.

CON: Travis Stearns, Deputy Director of Washington Defenders Association; Shankar Narayan, ACLU.

OTHER: Josh Markowitz, Youth Ambassador.