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## Early Learning & Human Services Committee

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### SSB 6529

**Brief Description:** Strengthening opportunities for the rehabilitation and reintegration of juvenile offenders.

**Sponsors:** Senate Committee on Human Services, Mental Health & Housing (originally sponsored by Senators Hargrove, Miloscia, Hewitt, Pedersen and McAuliffe).

#### Brief Summary of Substitute Bill

- Adds rehabilitation and reintegration of juvenile offenders to the purposes underlying the Juvenile Justice Act of 1977.
- Requires the court to defer a juvenile offender's disposition when eligible, except when a juvenile offender is charged with animal cruelty.
- Provides judicial discretion regarding fines for juveniles found to have committed motor vehicle related offenses.
- Allows a prosecutor to use his or her discretion to determine whether to file the information as a domestic violence offense if the juvenile offense was committed against a sibling, parent, stepparent, or grandparent.
- Eliminates the requirement that courts and diversion units notify the Department of Licensing after a juvenile offender's first offense or diversion agreement for an offense while armed with a firearm or offense related to drugs or alcohol.

**Hearing Date:** 2/23/16

**Staff:** Luke Wickham (786-7146).

**Background:**

Juvenile Justice Act of 1977.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

From 1913 to 1977 the juvenile justice system in Washington attempted to act as a parent for juveniles. Juvenile court during that period could intervene in the lives of juveniles who were alleged to be dependent or delinquent.

The Juvenile Justice Act of 1977 recreated the juvenile justice system in Washington to closely resemble the adult criminal justice system by establishing determinate sentencing and due process protections for juveniles.

The purposes of the Juvenile Justice Act of 1977 include:

- protecting the citizenry from criminal behavior;
- determining whether accused juveniles have committed offenses;
- making juveniles accountable for criminal behavior;
- providing for punishment commensurate with the age, crime, and history of the juvenile offender;
- providing due process for juveniles alleged to have committed an offense;
- providing necessary treatment, supervision, and custody for juvenile offenders;
- providing for the handling of juvenile offenders by communities whenever consistent with public safety;
- providing for restitution to victims of crime;
- developing effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels;
- providing for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services;
- providing opportunities for victim participation in juvenile justice process, including court hearings on juvenile offender matters, and ensuring that Article I, section 35 of the Washington state Constitution, the victim bill of rights, is fully observed; and
- encouraging the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process.

#### Minimum Sentencing for Juvenile Offenders for Motor Vehicle Related Offenses.

In 2007 mandatory minimum sentencing requirements were established for juveniles found to have committed motor vehicle related offenses.

A juvenile offender adjudicated of Taking a Motor Vehicle Without Permission in the First Degree is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior felony adjudications and two or fewer misdemeanor adjudications must be sentenced to a minimum of three months community supervision, 45 hours of community restitution, a \$200 fine, and a requirement that the juvenile remain at home for no less than five days.
- Juveniles with one prior felony adjudication or between three and six misdemeanor adjudications must be sentenced to a minimum of six months community supervision, 10 days detention, 90 hours of community restitution, and a \$400 fine.
- Juveniles with two or more prior felony adjudications or eight or more misdemeanor adjudications must be sentenced to a minimum of 15 to 36 weeks confinement, four months supervision, 90 hours of community restitution, and a \$400 fine.

A juvenile offender adjudicated of Theft of a Motor Vehicle or Possession of a Stolen Vehicle is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior felony adjudications and two or fewer misdemeanor adjudications must be sentenced to a minimum of three months community supervision, 45 hours of community restitution, and a \$200 fine, and either 90 hours of community restitution or a requirement that the juvenile remain at home for no less than five days.
- Juveniles with one prior felony adjudication or between three and six misdemeanor adjudications must be sentenced to a minimum of six months community supervision, 10 days of detention, 90 hours of community restitution, and a \$400 fine.
- Juveniles with two or more prior adjudications or eight or more prior misdemeanor adjudications must be sentenced to a minimum of 15 to 36 weeks of confinement, four months of supervision, 90 hours of community restitution, and a \$400 fine.

A juvenile offender adjudicated of the offense of Taking a Motor Vehicle Without Permission in the Second Degree is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior felony adjudications or two or fewer misdemeanor adjudications must be sentenced to three months of community supervision, 15 hours community restitution, and a requirement that the juvenile remain at home for no less than one day.
- Juveniles with one prior felony adjudication or between three and six misdemeanor adjudications must be sentenced to a minimum of one day detention, three months of community supervision, 30 hours of community restitution, a \$150 fine, and a requirement that the juvenile remain at home for no less than two days.
- Juveniles with two or more prior felony adjudications or eight or more misdemeanor adjudications must be sentenced to a minimum of three days detention, seven days home detention, six months supervision, 45 hours of community restitution, and a \$150 fine.

For all of these motor vehicle related offenses, juveniles may be subject to electronic monitoring where available.

#### Deferred Disposition.

A juvenile disposition is a court's order after a juvenile is found guilty of having committed an offense. A deferred disposition requires a juvenile to complete certain conditions set out by the court including probation and payment of restitution, while the court defers the disposition. If the juvenile successfully completes the required conditions, the court will dismiss the case. If the juvenile does not successfully complete the conditions, the court may impose the disposition that had been deferred.

A juvenile is eligible for a deferred disposition unless he or she is charged with a sex or violent offense, has a criminal history that includes any felony, or has two or more prior adjudications. If a juvenile is eligible, the court has the discretion whether or not to grant a deferred disposition.

#### Mandatory Domestic Violence Arrest.

The Legislature enacted legislation in 1984 requiring that officers arrest a person when the officer has probable cause to believe that person has committed domestic violence assault within the last four hours. In 1985 the age of mandatory arrest for domestic violence was increased to age 18 and older. In 1995 the age of mandatory arrest was reduced to age 16 and older.

A police officer must arrest and take into custody a person who is 16 years of age or older when the officer has probable cause to believe that the individual assaulted a family or household member within the preceding four hours and the officer believes:

- a felony assault occurred;
- an assault occurred resulting in bodily injury to the victim; or
- any physical action occurred that was intended to cause another person to reasonably fear imminent serious bodily harm or death.

In these circumstances, the officer shall arrest the person whom the officer believes to be the primary physical aggressor.

#### Department of Licensing Notification of Juvenile Offenses.

Courts must notify the Department of Licensing (DOL) within 24 hours after a juvenile 13 years of age or older is found to have committed:

- an offense while armed with a firearm;
- unlawful possession of a firearm; or
- a drug or alcohol-related offense.

Upon receipt of the first notification from a court that one of the above offenses was committed, the DOL must revoke a juvenile's driver license for one year, or until the juvenile reaches 17 years old, whichever is longer. Upon notice of the second offense above, the DOL must impose a revocation for two years or until the juvenile reaches 18 years old, whichever is longer.

If a juvenile enters into a diversion agreement for an offense while armed with a firearm or a drug or alcohol related offense, the diversion unit must notify the DOL. Once a juvenile completes a diversion agreement for one of these offenses, the DOL must reinstate the juvenile's driving privileges so long as the juvenile has had their driving privileges revoked for at least 90 days for a first offense, or one year for a second offense.

#### **Summary of Bill:**

##### Juvenile Justice Act Purposes.

Rehabilitation and reintegration of juvenile offenders are added to the purposes underlying the Juvenile Justice Act of 1977.

##### Deferred Disposition.

A court must defer a juvenile offender's disposition when eligible, except when a juvenile offender is charged with animal cruelty. The court has discretion whether to grant a deferred disposition when a juvenile is charged with animal cruelty, and must consider whether the community would benefit from the youth being granted a deferred disposition.

##### Juvenile Motor Vehicle Offenses.

Fines after a juvenile offender is adjudicated of Taking a Motor Vehicle Without Permission in the First and Second Degrees, Theft of a Motor Vehicle, and Possession of a Stolen Vehicle are eliminated. The mandatory 45 hours of community restitution and option of imposing electronic monitoring for juveniles adjudicated of Theft of a Motor Vehicle or Possession of a Stolen Vehicle with a prior criminal history score of zero to one-half is eliminated. The option of imposing electronic monitoring for juveniles adjudicated of Taking a Motor Vehicle Without

Permission in the First Degree with a prior criminal history score of zero to one-half points is also eliminated.

Juveniles adjudicated of Theft of a Motor Vehicle or Possession of a Stolen Motor Vehicle with a prior criminal history score of zero to one-half points must perform either 90 hours of community restitution, be confined at home for at least five days, or complete a combination of those two that includes a minimum of three days home confinement and a maximum of 40 hours of community restitution.

Domestic Violence.

The age of mandatory arrest is increased from 16 to 18 years of age for individuals whom an officer has probable cause to believe assaulted a family or household member in the preceding four hours.

Any police officer may arrest a 16 or 17-year-old who has assaulted a family member in the preceding four hours. In making the determination whether to arrest a 16 or 17-year-old for Domestic Violence Assault, the officer must consider:

- the intent to protect victims of domestic violence;
- the extent of injuries or threats; and
- the history of domestic violence or stalking of the parties.

Department of Licensing Notification.

The DOL would no longer be notified by a court or diversion unit after a juvenile offender's first offense or diversion agreement for:

- an offense while armed with a firearm;
- unlawful possession of a firearm; or
- a drug or alcohol-related offense.

**Appropriation:** None.

**Fiscal Note:** Available.

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