

HOUSE BILL REPORT

SSB 6529

As Reported by House Committee On:
Early Learning & Human Services
Transportation

Title: An act relating to strengthening opportunities for the rehabilitation and reintegration of juvenile offenders.

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 History:

Committee Activity:

Early Learning & Human Services: 2/23/16, 2/24/16 [DPA];
Transportation: 2/29/16 [DPA(ELHS)].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- 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.
- Eliminates fines for juveniles who 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, unlawful possession of a firearm, or offense related to drugs or alcohol.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

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.

Majority Report: Do pass as amended. Signed by 9 members: Representatives Kagi, Chair; Senn, Vice Chair; Walsh, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Hawkins, Kilduff, Ortiz-Self, Sawyer and Walkinshaw.

Minority Report: Without recommendation. Signed by 1 member: Representative McCaslin.

Staff: Luke Wickham (786-7146).

Background:

Juvenile Justice Act of 1977.

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.

Domestic Violence Offenses.

After responding to a domestic violence call, a law enforcement officer must forward the offense report to the prosecuting attorney within 10 days of making a report if there is probable cause to believe that an offense was committed, unless the case is under active investigation.

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 Amended Bill:

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

Restorative justice programs are added to community-based rehabilitation for juvenile offenders.

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.

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 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.

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 minimum of 40 hours of community restitution.

After receiving an offense report from law enforcement that includes information related to domestic violence, the prosecutor may 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. In determining whether to file an information as a domestic violence offense, the prosecuting attorney may take into consideration a victim's request or the lack of objection from a victim.

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.

Amended Bill Compared to Substitute Bill:

The amended bill specifies that juveniles adjudicated of Theft of a Motor Vehicle or Possession of a Motor Vehicle may perform a combination of home confinement and a minimum of 40 hours of community service.

The amended bill restores the ability for electronic monitoring to be ordered for juveniles adjudicated of motor vehicle offenses.

The amended bill replaces the provision raising the age of mandatory domestic violence arrest from 16 to 18 with a provision giving prosecutors discretion regarding filing an information as a domestic violence offense if the juvenile offense was committed against a sibling, parent, stepparent, or grandparent.

The amended bill adds restorative justice to the definition of community-based rehabilitation for juvenile offenders.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is the work of juvenile justice practitioners coming together to make sure that juvenile offenders remain first time offenders. There is an amendment in the works that would make this bill almost identical to Engrossed Substitute House Bill 2906. It is unclear why the DOL would require an information technology change. The diversion aspect of license suspension is huge. Even when juveniles go through diversion, they still have their licenses suspended. The Washington Prosecutors Association is supportive of this bill outside of the piece in this bill that raises the age of mandatory arrest of domestic violence from 16 to 18 and above. It is very important to include prosecutorial discretion regarding filing an offense as a domestic violence offense. That is the approach that has been taken by Thurston County. The Washington Prosecutors Association supports maintaining the mandatory arrest for 16- and 17-year olds for domestic violence assault.

This bill increases rehabilitation and reintegration for juvenile offenders. It is unusual for prosecutors and defense attorneys to agree to everything included in a bill. The state's Office of Public Defense is competing with four other states to receive a grant that establishes guidelines for public defense.

(Opposed) None.

(Other) The Washington Association of Sheriffs and Police Chiefs is supportive of this bill with an amendment changing the maximum to minimum, for juveniles adjudicated of Theft of a Motor Vehicle or Possession of a Motor Vehicle performing a combination of home confinement and a minimum of 40 hours of community service. The Washington Association of Sheriffs and Police Chiefs is supportive of eliminating the mandatory fines for juvenile motor vehicle offenses.

Persons Testifying: (In support) Thomas O'Ban, Columbia Legal Services; Wayne Graham, King County Prosecutor's Office; and George Yeannakis, Washington State Office of Public Defense.

(Other) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended by Committee on Early Learning & Human Services. Signed by 22 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Bergquist,

Gregerson, Hickel, Kochmar, McBride, Moeller, Morris, Ortiz-Self, Pike, Riccelli, Rodne, Rossetti, Sells, Stambaugh and Tarleton.

Minority Report: Do not pass. Signed by 3 members: Representatives Hayes, Shea and Young.

Staff: Jennifer Harris (786-7143).

Summary of Recommendation of Committee On Transportation Compared to Recommendation of Committee On Early Learning & Human Services:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is the product of long-time juvenile justice practitioners coming together and agreeing on good policy. The purpose of these individuals coming together was to evaluate how to make juveniles' first offenses their only offenses. The policy change this bill makes is more important than its fiscal note.

Over the past few years, through the Youth Opportunities and Youth Equality and Reintegration Act, the Legislature has made it clear that actors in the criminal justice system should be thinking more critically and creatively about how to make sure juveniles do not reoffend. The bill addresses charging and sentencing for a few minor juvenile justice offenses and takes strides in making sure that juveniles do not reoffend.

There are a few aspects of previous juvenile justice bills that have passed in the Legislature over the past few years that also run through this legislation. After just punishment and making the victim whole, rehabilitation and reintegration should be the next goals of the juvenile justice system. Community service and home confinement are better, more equitable tools of punishment than mandatory fines for juvenile offenders. Greater prosecutorial and judicial discretion for a youth's first minor offense allows for the community to consider in a better way its needs as a whole. Preserving employment opportunities for youth is vital.

The Washington Association of Prosecuting Attorneys supports the bill. The bill would result in a fiscal loss to the Department of Licensing, but second chances and strong employment opportunities being made available to youth is an important endeavor here. The bill comes along the coattails of last year's reduction in fees and fines for juveniles that passed the Legislature and has been operating well since, helping youth.

When most kids come to court, they do not realize that they will lose their driver's license because they were at a drinking party or in possession of drugs or marijuana. The bill would give courts the opportunity to inform kids that have committed their first violation that they will lose their driver's license if they commit a second violation. Prosecutors and defense attorneys worked together on this juvenile justice bill and believe it is a positive step.

With regard to deferred disposition being made mandatory, youth still have to qualify for a deferred disposition under statutory guidelines set forth by the Legislature and can only obtain it once. Instances currently arise where two co-defendants have had similar levels of culpability in a crime and one co-defendant receives a deferred disposition from one judge and the other does not receive a deferred disposition from another judge. This creates an opportunity for unfairness under current law.

(Opposed) None.

Persons Testifying: Thomas O'Ban, Columbia Legal Services; and Todd Dowell, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.