

# SENATE BILL REPORT

## 2SHB 1280

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As Reported by Senate Committee On:  
Human Services, Mental Health & Housing, March 28, 2017  
Ways & Means  
Human Services & Corrections, February 23, 2018

**Title:** An act relating to including referred and diverted youth in establishing community juvenile accountability program guidelines.

**Brief Description:** Including referred and diverted youth in establishing community juvenile accountability program guidelines.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Kagi and Fey).

**Brief History:** Passed House: 3/06/17, 64-34; 1/31/18, 71-23.

**Committee Activity:** Human Services, Mental Health & Housing: 3/27/17, 3/28/17 [DPA-WM, DNP].

Ways & Means: 3/30/17.

Human Services & Corrections: 2/19/18, 2/23/18 [DPA].

### Brief Summary of Amended Bill

- Requires expansion of guidelines for community juvenile accountability programs to include referred youth, defined as a youth referred to a program by a police officer in lieu of diversion or charging of a juvenile offense for which there is probable cause.
- Eliminates contests to regular sealing hearings for juvenile court records and fact-finding related to whether the respondent has completed the terms and conditions of disposition.
- Requires the clerk of court to notify a juvenile when sealing is denied due solely to lack of payment of restitution and requires the court to seal the record if the juvenile provides proof of payment at a later date.

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### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

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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.*

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle, Hunt and Walsh.

**Minority Report:** Do not pass.  
Signed by Senator Padden.

**Staff:** Melissa Burke-Cain (786-7755)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Travis Sugarman (786-7446)

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## SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt and Miloscia.

**Staff:** Kevin Black (786-7747)

**Background:** The Community Juvenile Accountability Act (CJAA) allows local governments to submit proposals for funding community juvenile accountability programs in their communities. These proposals must be submitted to Juvenile Rehabilitation (JR) of the Department of Social and Health Services (DSHS). A Community Juvenile Accountability Program (CJAP) proposal must include:

- a demonstration that the proposal was developed with the input of the community public health and safety networks, and the local law and justice councils;
- a description of how local community groups or members are involved in the implementation of programs; and
- a description of how the grant funds will contribute to the expected outcomes of the program and the reduction of youth violence and juvenile crime in the community.

Local governments that receive CJAP funding must agree that the funds they receive be used efficiently to encourage the use of community-based programs that reduce the reliance on juvenile offender secure confinement. JR, in consultation with the Washington Association of Juvenile Court Administrators, the state law and justice advisory council, and the family policy council, establishes CJAP guidelines. These guidelines must:

- target diverted and adjudicated juvenile offenders;
- include assessment methods to determine services, programs, and intervention strategies;
- provide maximum structured supervision in the community;
- promote work ethic values and educational skills and competencies;
- maximize the efficient delivery of treatment services that reduce risk factors associated with committing juvenile offenses;
- maximize reintegration of the juvenile offenders into the community after release;
- maximize a juvenile offender's ability to make restitution to the victims;
- support and encourage increased court discretion in imposing community-based intervention;

- be compatible with research;
- be outcome-based;
- include an evaluation component; and
- recognize the diversity of local needs.

The CJAA required the Washington State Institute for Public Policy (WSIPP) to develop standards for measuring the effectiveness of juvenile accountability programs funded by the CJAP. WSIPP has evaluated the effectiveness of several juvenile justice programs including the Coordination of Services Program, Aggression Replacement Therapy, Family Integrated Transitions, Functional Family Therapy, and Multisystemic Therapy.

Juvenile Court Records. Juvenile court records are open to public inspection, unless sealed. Since 2014, a juvenile court must schedule a sealing hearing at a juvenile's disposition hearing, to take place upon the juvenile's eighteenth birthday, anticipated completion of probation, or anticipated release from confinement, whichever is later. The court must hold a contested sealing hearing if the court receives an objection to sealing, or the court notes a compelling reason not to seal. Juvenile offenses are eligible for sealing if they are not most serious offenses, sex offenses, or drug offenses, excluding possession of a controlled substance or forged prescription. The court must find that the person has completed the full terms and conditions of the disposition, including affirmative conditions, and has paid full restitution to any individual victim.

If not subject to regular sealing, a juvenile court record may be vacated and sealed by motion, provided that if the person was charged with a class A felony, the person must meet certain requirements, including spending five consecutive years in the community without being convicted or adjudicated of a crime, not being required to register as a sex offender, and payment of full restitution. Sealing by motion is not available to a person convicted of rape 1, rape 2, or indecent liberties with forcible compulsion.

Adjudication of a juvenile offense or crime subsequent to sealing, or the charging of an adult felony, has the effect of nullifying a sealing order.

Serious violent offenses include murder 1, murder 2, homicide by abuse, manslaughter 1, assault 1, kidnapping 1, rape 1, assault of a child 1, and attempts, criminal solicitations, and criminal conspiracies to commit one of these felonies.

**Summary of Amended Bill:** Guidelines for CJAPs must be amended to allow referred, as well as diverted, youth to participate in such programs. A referred youth is defined as a youth who:

- is contacted by a law enforcement officer who has probable cause to believe the youth committed a crime;
- is referred to a program that allows the youth to enter before being diverted or charged with a criminal offense; and
- if not for the program the youth was referred to, would be diverted or charged with a criminal offense.

A stop loss policy must be implemented to prevent more than 2 percent of CJAP funds from shifting away from a particular county in a given year. The block grant oversight committee

must establish minimum base levels of CJAP funding. DSHS must provide a report on December 1 in 2018 and 2019 to appropriate committees of the Legislature which includes a county by county description of the youth served by CJAPs and includes the number of persons who participate as referred youth.

Superior court must hold regular sealing hearings for juvenile court records related to eligible offenses. At the sealing hearing, the court must enter a written sealing order if the court finds that the juvenile is no longer on supervision in the case to be sealed and has paid the full restitution amount owing to the individual victim named in the restitution order. Exceptions allowing for a contested sealing hearing if the court receives an objection to sealing or the court notes a compelling reason not to seal are eliminated. The court must take judicial notice of court records when determining whether the respondent remains on supervision. If the court finds the juvenile remains on supervision but has paid the full amount of restitution to the individual victim, the court must continue the sealing hearing until supervision is completed. If the court denies sealing based solely on unpaid restitution, the court must specify the unpaid amount in a written order and the clerk of the court must notify the juvenile at the juvenile's last known address. If the juvenile contacts the court at any later time and provides proof of payment of restitution, requests the record be sealed, and the court finds that restitution is paid, the court must seal the juvenile court record.

Dismissals of deferred dispositions are exempted from the requirement that juvenile court records must be immediately sealed upon acquittal or upon dismissal of the charges with prejudice.

Juvenile court records of eligible persons may be sealed by motion, but not vacated by the court prior to sealing.

#### **EFFECT OF HUMAN SERVICES & CORRECTIONS COMMITTEE AMENDMENT (S):**

- Creates a stop loss policy preventing CJAP funding formula changes from causing a funding loss of more than 2 percent in one year for a given county, and requiring the block grant oversight committee to establish minimum base levels of funding.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Second Substitute House Bill (Human Services, Mental Health & Housing):** *Testimony from 2017 Regular Session.* PRO: Currently, a youth has to be charged before becoming eligible for the community accountability program services. This bill would allow the youth to receive program services without being charged and creating a record. Counties are concerned that expanding this target group to include referred youth under the current formula for block grants will cause some counties to lose

funds while others gain funds based on the number of referred youth coming into the program. To address the funding concern, the proposed house budget has proviso language providing a 2 percent stop-loss per year for affected counties. There has been significant work done to find ways to help reform juvenile justice with more early prevention using models that allow more services upstream. Testimony suggested the Superior Court Judges Association and the Juvenile Court Administrators Associations have changed their opposition to the bill to support for the bill with the proposed changes defining referred youth and adding a stop-loss mechanism for counties included in budget proviso. Many tribal youth have successfully been through the community accountability program. Without the early intervention services, the chances of recidivism go up. While it is an advantage to have the services, having a record established by a deferred or adjudicated case impairs the chance for college admission and jobs. It would be helpful to allow these services without the need for the youth to be charged with a crime.

**Persons Testifying (Human Services, Mental Health & Housing):** PRO: Representative Ruth Kagi, Prime Sponsor; April Putney, King County; Helen Fenrich, Tulalip Tribes.

**Persons Signed In To Testify But Not Testifying (Human Services, Mental Health & Housing):** No one.

**Staff Summary of Public Testimony on Bill as Amended by Human Services, Mental Health & Housing (Ways & Means):** *Testimony from 2017 Regular Session.* PRO: This bill allows us to get in earlier before youth are adjudicated. Washington is one of only three states to receive a large planning grant to look at how these programs are working and is one of only three states.

**Persons Testifying (Ways & Means):** PRO: April Putney, King County; Michael Shaw, King County.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.

**Staff Summary of Public Testimony on Second Substitute House Bill (Human Services & Corrections):** *The committee recommended a different version of the bill than what was heard.* PRO: The stop loss provision was removed from this bill and placed in a budget proviso out of concern about what would happen if the language needed to be adjusted later. It will be in a proviso again. The concern about shifting resources from rural counties into urban counties. In Ellensburg they are not using evidence based programs, because they do not have enough youth that are charged. They would be able to reach more youth by serving them before they are charged, creating opportunities to change the track of a youth's life.

**Persons Testifying (Human Services & Corrections):** PRO: Representative Ruth Kagi, Prime Sponsor; Michael Shaw, King County.

**Persons Signed In To Testify But Not Testifying (Human Services & Corrections):** No one.