

SENATE BILL REPORT

2SHB 1391

As Reported by Senate Committee On:
Human Services, March 25, 2025
Ways & Means, April 8, 2025

Title: An act relating to improving developmentally appropriate alternatives for youth outside the formal court process.

Brief Description: Improving developmentally appropriate alternatives for youth outside the formal court process.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Cortes, Eslick, Ryu, Stonier, Simmons, Peterson, Reed, Parshley, Goodman, Doglio, Taylor, Salahuddin, Street, Timmons, Scott and Santos).

Brief History: Passed House: 3/5/25, 91-2.

Committee Activity: Human Services: 3/19/25, 3/25/25 [DP-WM, DNP, w/oRec].
Ways & Means: 4/04/25, 4/08/25 [DP, w/oRec].

Brief Summary of Bill

- Removes diversion agreements and successfully completed diversions from a youth's criminal history.
- Prohibits parents and guardians from declining to enter into or preventing a juvenile from entering into a diversion agreement.
- Restricts diversion agreements for offenses that were committed after a juvenile's eighteenth birthday.
- Creates new diversion data reporting requirements for the Administrative Office of the Courts.

SENATE COMMITTEE ON HUMAN SERVICES

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

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

Signed by Senators Wilson, C., Chair; Frame, Vice Chair; Orwall.

Minority Report: Do not pass.

Signed by Senator Christian, Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senator Warnick.

Staff: Will Trondsen (786-7552)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: That it be referred without recommendation.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Braun, Muzzall, Wagoner and Warnick.

Staff: Tianyi Lan (786-7432)

Background: Juvenile Diversions. Under Washington law, youth are afforded an opportunity to participate in a diversion if they are alleged to have committed a misdemeanor or gross misdemeanor, and it is the juvenile's first offense. A prosecutor also has discretion to divert any subsequent offense of a youth so long as it is not a sex offense or violent offense, other than assault in the second degree or robbery in the second degree.

Scope of Agreement. A diversion is an agreement between the juvenile accused of an offense and a diversion unit where the juvenile agrees to fulfill certain conditions in lieu of prosecution. The agreement must consist of one or more of the following:

- community restitution not to exceed 150 hours;
- restitution limited to the amount of actual loss incurred by any victim, excluding restitution owed to any insurance provider;
- attendance of up to ten hours of counseling or up to 20 hours of positive youth development or both and education or informational sessions at a community agency;
- requirements to remain during specified hours at home, school, or work, and restrictions from leaving or entering specified geographical areas; and
- upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

A complete diversion agreement includes a signed acknowledgment of advisement by the juvenile along with a copy of the agreement.

Length of Time. A diversion may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee, if additional time is needed to complete the terms of the agreement or restitution to a victim, the time period limitations may be extended an additional six months at the request of the juvenile. If restitution cannot be made after the additional six months, a juvenile may be referred to the juvenile court for entry of a civil order establishing payment of restitution and setting the terms of repayment. In their discretion, a diversion unit may also counsel and release a juvenile without entering into a diversion agreement.

Failure to Complete a Diversion. If a youth fails to complete a diversion, the youth is afforded due process which includes the right to a hearing. At the hearing, if it is determined the youth has substantially violated the terms of a diversion agreement, the court may terminate a diversion and the prosecutor may file information on the diverted offense.

Criminal History. Diversion agreements constitute a part of the youth's criminal history.

Summary of Bill: Juvenile Diversions. Removes diversions from the definition of criminal history of a juvenile, and successfully completed diversions under state law that may not be considered part of the respondent's criminal history. This revised definition applies to all completed juvenile diversion agreements and those which are in place but not yet completed on or after the effective date of this act, regardless of the underlying offense date.

The juvenile's parent or guardian cannot decline to enter into a diversion agreement on behalf of the juvenile and cannot prevent a juvenile from entering into a diversion agreement. A diversion is allowed to include restorative justice. Offenses committed as a juvenile are allowed to be diverted as long as they are completed by the juvenile's twenty-first birthday.

Courts are prohibited from terminating a diversion agreement on or after the juvenile's twenty-first birthday and any pending information in the case diverted and pending motion to terminate shall be dismissed with prejudice. No case may be diverted if the offense happened on or after the juvenile's eighteenth birthday.

Intake appointments are included in the definition of community-based rehabilitation.

Data Reporting Requirements. Juvenile courts are required to keep data on diversion agreements, including the date of the diversion agreement and the outcome of the agreement. Courts are also encouraged to keep track of detention alternatives entered, and informal diversion events where no diversion agreement was entered.

Subject to the availability of funds appropriated, the Administrative Office of the

Courts (AOC), in consultation with the Department of Children, Youth, and Families and juvenile court administrators, is required to develop common definitions, outcome measures, and data collection methods for both informal and formal diversion programs with a report due on July 1, 2026, to the appropriate committees of the Legislature and the Governor.

The AOC shall deliver an annual statewide report to the Legislature that details the age, race, ethnicity, gender, tribal affiliation if known, county, and number of Washington youth that enter into a formal diversion agreement each calendar year. The report must also include:

- how many diversion are entered into before or after filing information;
- the number and rate of successfully completed diversions;
- what types of alleged offenses referred to diversion;
- the number and rate of refused diversions and whether the diversion was refused by the youth or the court;
- the number and type of disposition alternatives granted each calendar year and how many were revoked;
- the number of law enforcement referrals to a prosecuting attorney alleging the commission of a juvenile offense each calendar year organized by referring agency; and
- the number of school referrals to a prosecuting attorney alleging the commission of a juvenile offense each calendar year organized by school district.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony (Human Services): PRO: Diversion creates lower recidivism rates, and the bill helps make that uniform across Washington. Investing in diversion helps to reduce the overcrowding issues at DCYF facilities. The legislation was slimmed down to ensure it could work in the budget. This bill would advance a critical need in the juvenile courts to gain essential statewide level data on diversions in Washington. The bill provides the tools to finally understand at the state level the success of diversions, and to develop programs that support public safety while also aligning with scientific findings in regards to brain development.

The decision to enter into a diversion agreement should remain solely with the youth, and this legislation makes sure that the decision cannot be overridden by a parent or guardian. The goal of this work is to make sure that when juveniles commit minor offenses it does not

follow them for years to come. If passed, the bill allows for the Administrative Office of the Courts to study diversion programs offered across all 33 juvenile courts, and is currently a vastly understudied topic in Washington State policy. Many courts also report offering informal diversions, but there is no statewide data available. Treatment options are more abundant in the community than at JR facilities, and keeping youth in the community allows them to access more services. Juvenile detention is excessive in many cases given what adolescent brain science says about young people.

Persons Testifying (Human Services): PRO: Representative Julio Cortes, Prime Sponsor; Dr. Esther Matthews; Joshua Wheeldon, TeamChild youth Advisory Board; Linnea Anderson, Washington Association of Juvenile Court Administrators; Radu Smintina, School's Out Washington; Haily Perkins, Administrative Office of the Courts; Hayden Quillen.

Persons Signed In To Testify But Not Testifying (Human Services): PRO: Roxana Gomez, Legal Counsel for Youth and Children.

Staff Summary of Public Testimony (Ways & Means): PRO: Diversion provides a significant cost benefit and offers young people an opportunity to turn their lives around. A minor mistake should not cause young people to go down the criminal justice system. Diversion allows them to learn from their actions, receive support, and continue to grow.

The bill advances a critical need in the juvenile courts to gain essential statewide data on diversion programs to improve the approach and create solutions that prioritize rehabilitation. Interventions are crucial for continued success in the improvement of the youth justice system.

Persons Testifying (Ways & Means): PRO: Linnea Anderson, San Juan County Superior Court Services Director; Myle Tang, Stand for Children Washington.

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