

SENATE BILL REPORT

SB 5426

As of January 29, 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: Senators Wilson, C., Frame, Hasegawa, Nobles, Saldaña, Trudeau and Valdez.

Brief History:

Committee Activity: Human Services: 1/29/25.

Brief Summary of Bill

- Removes diversion agreements and successfully completed diversions from a youth's criminal history.
- Requires the Department of Children, Youth, and Families to establish a grant program and seek advice on how to prioritize distribution of those funds for community-based programs.
- Creates new diversion data reporting requirements for the Administrative Office of the Courts.

SENATE COMMITTEE ON HUMAN SERVICES

Staff: Will Trondsen (786-7552)

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.

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.

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.

Length of Time. A diversion may not exceed a period of six months and may include a period extending beyond the 18th 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: 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 regardless of the underlying offense date.

A 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.

Permits restorative justice to be included in a diversion.

Expands diversions to allow offenses committed as a juvenile to be diverted and completed up to the youth's 21st birthday.

Prohibits a court from terminating a diversion agreement on or after the juvenile's 21st birthday and, indicates that 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 18th birthday.

The Department of Children, Youth, and Families, subject to availability of funds, shall establish a grant program within the Office of Juvenile Justice to support community-based programs that divert youth from entering or reentering the juvenile justice system. Community-based programs selected to receive grant funding must:

- aim to reduce racial and ethnic disparities; and
 1. apply in coordination with a school or school district, law enforcement agency, prosecuting attorney's office, or juvenile court; or
 2. apply as a school or school district.

Priority for grant funding must be distributed to the community-based organization as the primary applicant, ensuring geographic diversity and then smaller community-based organizations.

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.

Clarifies the information courts shall provide for secure detention events.

The Administrative Office of the Courts 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: None.

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: PRO: There have been a lot of conversations about how to support our young people and this bill is solution focused and prevention focused. Youth who are diverted often end up on a much better path than those that are formally adjudicated. Diversions are not used as often as they should be, and it differs from county to county, across our state, and impacts our children in disproportionate rates. Diversions are cost effective for our state. There is currently no grant funding up front and diversions strengthen the community. There is no data that is collected on diversions and diversion services statewide. This bill helps to allow young people to have a fresh start. This has been the cumulative effort of one year discussing what a diversion could look like. Stakeholders met as a group to discuss the pitfalls and how to fix diversions for all of Washington State. Diverted youth have a recidivism rate that is roughly half of adjudicated youth. This bill allows us to fix data and technical issues so that diversions may be better tracked. Diversion programs can transform the lives of the youth and their families. From diversions, youth gain an understanding that their actions impact those around them. Opportunities to do a diversion can help people stay on a path of success and not end up down a road to prison. People can benefit from treatment and counseling that diversion can offer. We currently divert more youth than file cases in juvenile court. Our courts are still able to consider the diversion history of a youth who is being sentenced even if it is not included in criminal history.

Persons Testifying: PRO: Senator Claire Wilson, Prime Sponsor; Gisella Gonzalez, TeamChild Youth Advisory Board; Julissa Sanchez, CHOOSE 180; Haily Perkins, Administrative Office of the Courts; Liz Trautman, Stand for Children Washington; Katie Hurley, King County Department of Public Defense; Morning Large; Roxana Gomez, Legal Counsel for Youth and Children; LaDessa Croucher, Resolution Washington; Linnea Anderson, Washington Association of Juvenile Court Administrators.

Persons Signed In To Testify But Not Testifying: No one.