

HOUSE BILL REPORT

HB 2536

As Reported By House Committee On:
Corrections

Title: An act relating to juvenile offenders.

Brief Description: Providing for rehabilitation of juvenile offenders.

Sponsors: Representatives Morris, Long, Ballasiotes, Lemmon, Campbell, Karahalios, Edmondson, Sheldon, Mastin, Springer, Conway, L. Johnson, Moak, Ogden, Padden, Lisk, Appelwick, Brough, Brumsickle, Johanson, Van Luven, Quall, Rayburn, Talcott, Forner, Cooke and Wood.

Brief History:

Reported by House Committee on:
Corrections, February 3, 1994, DPS.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; G. Cole; L. Johnson; Moak and Padden.

Staff: Kristen Lichtenberg (786-7156).

Background:

Structuring of the Division of Juvenile Rehabilitation
The state agency responsible for juvenile offenders is the Department of Social and Health Services (DSHS, or the department). The secretary of DSHS is a cabinet-level position. The law gives the secretary broad authority to create administrative structures within the department, except as otherwise required by law. The DSHS secretary appoints assistant secretaries to administer the divisions within DSHS. Currently, the assistant secretary for Children, Family and Youth Services (CFYS) has jurisdiction over juvenile rehabilitation. Within the CFYS, the Division of Juvenile Rehabilitation (DJR) fulfills the department's responsibilities for juvenile offenders. Children, Family and Youth Services receives 7.1 percent of the department's total budget, and DJR receives 28.8 percent of the CFYS

budget; meaning that DJR receives only two percent of the DSHS budget.

Warrant Authority

The fourth amendment to the United States Constitution requires that an arrest warrant be issued by a "neutral and detached" magistrate who is capable of determining the existence of probable cause. The fourth amendment does not prohibit non-judges from issuing warrants, but the constitution does require severance of the warrant process from activities of law enforcement.

In Washington, the secretary of the Department of Corrections has narrow warrant-issuing authority. When the secretary grants a furlough to a prisoner, and either the prisoner violates furlough terms or the secretary revokes the furlough, the secretary has the statutory authority to issue an arrest warrant for the prisoner. Similarly, community corrections officers have the authority to cause the arrest without a warrant of offenders who violate terms of their sentences.

Sentencing

Under current law, a juvenile offender's disposition (sentence) is determined by offender category, age, current offense, and type and recency of previous offenses. Using these factors, a court uses one of three sentencing schedules to:

1. Impose a disposition within the statutory range;
2. Impose a determinate disposition under "Option B";
or;
3. Declare a "manifest injustice" and go outside the statutory range.

A court can declare a manifest injustice when the standard disposition would either impose an excessive penalty on the juvenile or create a serious and clear danger to the public. The current statutes do not require the court to consider the juvenile's rehabilitative needs.

Juvenile Disposition Standards Commission

The Juvenile Disposition Standards Commission (JDSC) proposes juvenile disposition standards to the Legislature. The JDSC is chaired by the secretary or the secretary's designee, and includes nine other members appointed by the Governor. Members serve three year terms.

The JDSC reviews the effectiveness of existing disposition standards, reviews application of the juvenile justice laws for disproportionality, and recommends modifications of disposition standards.

Summary of Substitute Bill:

Assistant Secretary Position for DJR

The bill requires the secretary to appoint an assistant secretary to administer the department's juvenile rehabilitative responsibilities. The bill imposes specific statutory responsibilities on the assistant secretary, including:

- Preparing a budget request sufficient to meet DJR's forecast needs;
- Creating by rule a formal inmate classification system;
- Developing substance abuse treatment programs;
- Developing vocational education programs;
- Developing regional facilities in cooperation with local authorities;
- Developing disciplinary policies;
- Developing procedures to evaluate residents for learning disabilities, fetal alcohol syndrome, etc; and
- Studying vocational education needs among residents and reporting to the Legislature.

Warrant Authority

The bill gives the assistant secretary the authority to issue arrest warrants for juveniles who escape from the department's residential custody.

Rehabilitative Sentencing

The bill permits a court to declare a manifest injustice and impose a longer disposition when the statutory range would fail to achieve the juvenile's rehabilitative needs. This option would permit the court to impose a longer sentence such as sentencing the juvenile to substance abuse treatment or a boot camp.

Detention Facilities

The definition of "detention facility" is broadened to include county group homes, foster care homes, boot camps, electronic monitoring, and inpatient drug treatment programs.

Juvenile Dispositions Standards Commission

The bill enlarges the membership of the JDSC to 14 members, requires the Governor to appoint the chair, and staggers the members' three-year terms. The bill directs the JDSC to develop dispositions that maximize judicial discretion and provide confinement time based on public safety, proportionality, and rehabilitative needs.

The commission will share a staff with the Sentencing Guidelines Commission, and the two commissions will meet twice each year.

Legislative Study Committee

The bill establishes a legislative study committee to review the implementation and administration of Title 13's provisions relating to juvenile offenders. Specifically, the committee shall review local jurisdictions' ability to administer juvenile justice.

Substitute Bill Compared to Original Bill: The substitute bill adds the duties to develop diagnostic procedures and to study and report on vocational education. The original bill provided for an independent staff, and the substitute directs the commission to share staff with the Office of Financial Management. The substitute bill also deletes an appropriation.

Fiscal Note: New fiscal note requested on substitute bill February 7, 1994.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The Department of Social and Health Services needs to focus on juvenile offenders as a separate issue. Support for juvenile offender services has eroded and needs to be restored; the system requires an advocate. The state needs a clearinghouse for juvenile offender information. Warrant authority is necessary to recapture escapees.

Testimony Against: Creating an assistant secretary position will thwart the department's efforts to consolidate divisions and save money. Legislative creation of this position will impair executive prerogative.

Witnesses: Pete Peterson, Paul Peteson, Tom Kearney and Doug Loree, Washington Association of Juvenile Court Administrators (pro); Sid Sidorowicz, Acting Director, Division of Juvenile Rehabilitation (con); and Kurt Sharar, Washington State Association of Counties (pro).