

HOUSE BILL REPORT

HB 2907

As Reported By House Committee On:
Appropriations

Title: An act relating to violence prevention.

Brief Description: Relating to violence prevention.

Sponsors: Representatives Morris, Long, Appelwick, Ballasiotes, Thibaudeau, Cooke, J. Kohl, L. Johnson, Lemmon, Caver, Jones and Rayburn.

Brief History:

Reported by House Committee on:
Appropriations, February 8, 1994, DPS.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Sommers, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Foreman; Jacobsen; Lemmon; Linville; Peery; Sehlin; Sheahan; Stevens; Talcott; Wang; Wineberry and Wolfe.

Minority Report: Do not pass. Signed by 3 members: Representatives Leonard; H. Myers and Rust.

Staff: Kristen Lichtenberg (786-7156); Antonio Sanchez (786-7383); Dave Knutson (786-7156); Bill Perry (786-7123); Pat Shelledy (786-7149); and Victor Moore (786-7143).

Background:

JUVENILE COURT JURISDICTION.

Juvenile Court and Family Court Jurisdiction. The Juvenile Court has exclusive original jurisdiction over juveniles under age 18 who have allegedly committed offenses. Under certain circumstances, the Juvenile Court may hold a hearing to determine whether to decline to exercise its jurisdiction over a juvenile offender. After the hearing, the court may transfer the juvenile for prosecution as an adult to adult criminal court.

The Juvenile Court is a division of the Superior Court. The Family Court is not technically a division of the Superior Court; however, the judges act as the "Family Court" when considering cases involving divorce, custody, visitation and child support. The Juvenile Court considers cases involving dependencies and crimes committed by juveniles. One juvenile may be involved in various court systems at the same time, depending on whether the juvenile is simultaneously a dependent of the state, an offender or a child of parents involved in a divorce. Although the barrier between "Family Court" and "Juvenile Court" is artificial, it currently prevents one court from considering various issues affecting the same child.

Review of the potential disproportionate impact of the juvenile offender system upon youth of color. Last year, the Legislature passed HB 1966, which implemented some of the recommendations of a study on racial discrimination in the juvenile justice system. One provision of HB 1966 directed the Office of the Administrator for the Courts to convene a working group to develop standards and guidelines for the prosecution of juvenile offenders. The work group is scheduled to submit its recommendations to the Legislature by December 1, 1994.

CRIMES.

Theft of Firearms. A person is guilty of theft in the second degree if the person steals a firearm having a value less than \$1,500. Theft in the second degree is a class C felony. It has a seriousness level of I on the adult Sentencing Reform Act grid. The presumptive range for a first-time adult offender who commits theft in the second degree is 0 - 60 days in jail. If the firearm's value is greater than \$1,500, the adult is guilty of theft in the first degree, which is a class B felony and which has a seriousness level of II on the grid. The presumptive range for crimes at seriousness level II is 0 - 90 days in jail for first-time offenders. If a person is in possession of a stolen firearm, regardless of its value, the person is guilty of possession of stolen property in the second degree, which is a class C felony at seriousness level I.

Special rules apply to dispositions imposed on juvenile offenders who commit theft in the first or second degree or possession of stolen property in the first or second degree. Under current law, depending upon the juvenile's criminal history, the prosecutor may divert a minor from prosecution for committing theft in the second degree or possession of stolen property in the second degree. If the juvenile is under age 17, the juvenile may be considered a "minor or first offender" depending on the offender's criminal

history. Minor or first offenders' presumptive dispositions do not include detention as a disposition option. The actual disposition that a court may impose upon a juvenile depends on a variety of factors, including the juvenile's age, alleged offense, criminal history and recency of that criminal history.

Reckless Endangerment in the First Degree. Reckless endangerment in the first degree is charged when a person recklessly discharges a firearm in a manner which creates a substantial risk of death or serious physical injury to another person, and the discharge is either from a motor vehicle or from the immediate vicinity of a motor vehicle that was used to transport the shooter to the scene of the discharge. Reckless endangerment in the first degree is a class C felony and is ranked at seriousness level II on the adult sentencing grid. The standard range for seriousness level II is 0 - 90 days in jail for a first-time offender.

Unlawful Possession of a Firearm; Delivery of a Firearm. Under current law, juveniles under age 14 may not possess firearms except under limited circumstances. Currently, unlawful possession of a firearm is a misdemeanor. Juveniles who commit this offense may be diverted and may be considered minor or first offenders depending on their age. Presumably, a minor may also be adjudicated of the offense of delivery of a firearm to another minor, which is also a misdemeanor.

JUVENILE DISPOSITION STANDARDS.

Offender Categories. The current juvenile justice system bases the type and length of a juvenile's disposition (sentence) on several factors, including the juvenile's offender category. Juvenile offenders are characterized as "minor or first offenders," "middle offenders," or "serious offenders," depending on their age and criminal history.

Minor or first offenders are 16 years of age or younger whose criminal history falls entirely within one of the following categories:

- (1) (a) four misdemeanors;
(b) two misdemeanors;
(c) one misdemeanor and two gross misdemeanors; or
(d) three gross misdemeanors; or
- (2) one class C felony, except manslaughter in the second degree, and one misdemeanor or gross misdemeanor; or

- (3) one class B felony, except: any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; assault in the second degree; extortion in the first degree; indecent liberties; burglary in the second degree; robbery in the second degree; residential burglary; vehicular homicide; or arson in the second degree.

The standard range disposition for minor or first offenders does not include detention time.

A serious offender, by contrast, is an offender who is 15 or older and whose current offense is a class A felony, an attempted class A felony, manslaughter 1, or a designated class B felony in which the offender either is armed with a deadly weapon or inflicts bodily harm upon another.

Middle offenders are juvenile offenders who are neither minor/first nor serious offenders.

Accordingly, the middle offender category includes both a 17 year old who commits a minor offense and a 14 year old who commits a class A felony.

Diversion. Some juveniles must or may be "diverted" from the juvenile justice system when they commit an offense. A diverted youth is referred to a county diversion unit, which is a probation counselor or any other person or entity with whom the Juvenile Court administrator has contracted to arrange and supervise the juvenile's compliance with a "diversion agreement." Some Juvenile Court administrators contract with "community accountability boards" to act as diversion units.

An alleged offender may be diverted for some class C felonies in the discretion of the prosecutor, depending on the offender's criminal history and other factors. Under current law, a juvenile offender accused of reckless endangerment in the first degree, theft in the second degree, possession of stolen property in the second degree, or unlawful possession or delivery of a firearm may be diverted if the offender otherwise meets the criteria for diversion.

Diversion agreements may include community service hours, restitution, counseling and a fine.

Statutory Standard Disposition Ranges. Current law establishes a determinate sentencing system for juveniles. The standard range bases the type and length of a juvenile's disposition (sentence) on several factors: