

SENATE BILL REPORT

ESHB 2906

AS REPORTED BY COMMITTEE ON WAYS & MEANS, FEBRUARY 28, 1994

**Brief Description:** Enacting programs to prevent violence.

**SPONSORS:** House Committee on Appropriations (originally sponsored by Representatives Appelwick, Ballasiotes, J. Kohl, Long, L. Johnson, Cooke, Thibaudeau, Lemmon, Morris, Caver, Jones and Dunshee)

**HOUSE COMMITTEE ON APPROPRIATIONS**

**SENATE COMMITTEE ON LAW & JUSTICE**

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

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Niemi, Quigley, Roach, Schow and Spanel.

**Staff:** Jon Carlson (786-7459)

**Hearing Dates:** February 24, 1994; February 25, 1994

**SENATE COMMITTEE ON WAYS & MEANS**

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

Signed by Senators Rinehart, Chairman; Quigley, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Ludwig, McDonald, Moyer, Niemi, Owen, Pelz, Snyder, Spanel, West and Wojahn.

**Staff:** Linda Brownell (786-7913)

**Hearing Dates:** February 28, 1994

**BACKGROUND:**

Parental Liability. The parent or parents of a minor child who is living with the parent or parents and who willfully or maliciously inflicts personal injury on another person or destroys property are liable for damages to the person injured or the property owner in an amount not to exceed \$5,000.

Firearms and Minors. "Short firearm" or "pistol" means any firearm with a barrel length less than 12 inches.

Under current law, it is a misdemeanor for any person to deliver a pistol to a person under 21 years of age.

A person under the age of 14 is prohibited from possessing a firearm except under the supervision of a parent or guardian or other adult approved by the parent or guardian. The

prohibition also does not apply if the minor is under the supervision of a certified safety instructor at an established gun range or firearm training class.

Juvenile Offender History. Currently, juvenile adjudications, other than adjudications for class A felonies if committed after the age of 15 or sex offenses, are not calculated into a defendant's adult offender score once the defendant turns 23 years of age. Unlike the scoring of previous adult felony convictions, a defendant's juvenile class B and C felony adjudications "wash out" when the defendant turns 23 years old, regardless of whether the defendant has remained within the criminal system and acquired new felony convictions.

Under the SRA system of scoring prior criminal convictions, a defendant's prior adult convictions "wash out" under the following circumstances:

Class A felonies never wash out.

Class B felonies (other than sex offenses) wash out if the defendant has spent ten consecutive years in the community without any felony convictions since the last date of release from confinement pursuant to the underlying felony conviction, or entry of the judgment and sentence, whichever date is later.

Class C felonies (other than sex offenses) wash out if the defendant has spent at least five consecutive years in the community without any felony convictions since the last date of release from confinement pursuant to the underlying felony conviction, or entry of the judgment and sentence, whichever date is later.

Prosecution of Juveniles as Adults. On the motion of a prosecutor, respondent, or the court, a hearing may be held to decide whether the court should decline jurisdiction over an alleged juvenile offender, and transfer the case for adult criminal prosecution. Unless waived by the parties, the decline hearing must be held in those cases where the respondent is 15, 16, or 17 years of age and is alleged to have committed certain serious offenses.

Juvenile Dispositions. The juvenile disposition standards impose community supervision on a graduated scale from 0-9 months for those minor offenders who have accumulated 0-79 offense points. Generally, minor offenders are not subject to a period of confinement.

There is no minimum sentence of confinement for a juvenile who illegally possesses a pistol. There is no provision for an enhanced penalty when a juvenile is armed with a firearm during the commission of a felony.

Restitution. Under the Juvenile Justice Act, community supervision of juvenile offenders may include a requirement to pay restitution to the victim. For minor offenses, supervision is limited to a maximum term of three months; more

serious offenses carry a maximum term of supervision of 12 months. Many juveniles are unable to pay restitution in full within those periods of time.

**SUMMARY:**

Extensive revisions are made to the Uniform Firearms Act and the Juvenile Justice Act.

**SUMMARY OF PROPOSED LAW & JUSTICE STRIKING AMENDMENT:**

Parental Liability. A parent or parents of a child who is living with the parent or parents and who willfully or maliciously injures another person or destroys property are liable to the injured person or the property owner for damages in an amount not to exceed \$10,000.

Firearms and Minors. A "short firearm" or "pistol" is any firearm with a barrel less than 18 inches in length or with an overall length of less than 26 inches.

It is a class C felony to deliver a pistol to a person under 18 years of age. The existing misdemeanor penalty now applies to the delivery of a pistol to a person between the ages of 18 and 20, inclusive.

No minor under the age of 18 may possess a pistol. Violation of this provision, or aiding or knowingly permitting a minor to violate this provision, is a class C felony. The existing misdemeanor penalty applies to the provisions that prohibit a minor under 14 years of age from possessing a firearm other than a pistol. The right to use a firearm in self-defense is not restricted.

Juvenile Offender History. For the purpose of calculating an adult defendant's offender score, prior juvenile felony adjudications no longer automatically "wash out" at the age of 23 and are subject to the same "wash out" provisions as prior adult felony convictions.

Prosecution of Juvenile Offenders as Adults. The adult criminal court has exclusive original jurisdiction over juvenile offenders 16 or 17 years of age when the alleged offense is: 1) a serious violent offense; or 2) a violent offense and the juvenile has a history as a chronic criminal offender.

Disposition Enhancements for Juvenile Offenders. Community supervision for those minor and middle offenders who have accumulated 1-79 offense points is increased up to 12 months. Minor offenders may be confined for up to 30 days depending on their accumulated offense point total. Periods of confinement for middle offenders are also increased.

A minimum confinement of ten days is imposed on any juvenile 16 or 17 years of age who illegally possesses a pistol. Community supervision may be extended up to 12 months for this crime.

There is an enhanced penalty when a juvenile is armed with a firearm during the commission of a felony. The enhancements are: 26 weeks for class A, A-, or A+ crimes; 16 weeks for class B, B-, or B+ crimes; and 12 weeks for class C or C+ crimes.

Restitution. Juvenile offenders remain under the court's jurisdiction for payment of restitution for up to ten years after their eighteenth birthday. The court may establish a restitution payment plan that extends up to ten years if the court determines the juvenile cannot pay in full over a shorter period.

Block Grants to Counties. The sum of \$10 million is appropriated for the biennium ending June 30, 1995 from the general fund to the youth violence prevention account for the purpose of making block grants to the counties.

A youth violence prevention account is created in the custody of the State Treasurer. Expenditures from the account are only for the purpose of making block grants. Only the Director of Community, Trade, and Economic Development or the director's designee may authorize expenditures from the account.

Funding for grants cannot be derived from any reduction of appropriations for criminal justice training or services, or from crime victim services.

Local governments, schools, and nonprofit prevention service providers are also eligible to receive funding to provide services for the purposes of the block grant program.

A local law and justice council's endorsement of a county legislative authority's plan for a grant must be in collaboration with local entities with expertise in violence prevention.

**SUMMARY OF PROPOSED AMENDMENT TO LAW & JUSTICE STRIKING AMENDMENT:**

No minor under the age of 18 may knowingly possess a pistol.

**SUMMARY OF PROPOSED WAYS & MEANS STRIKING AMENDMENT:**

Block Grants to Counties. A youth violence prevention account is created in the state treasury; is subject to appropriation; and can be used to fund block grants to local counties for violence prevention services. The \$10 million appropriation is deleted.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 22, 1994

**TESTIMONY FOR (Law & Justice):**

This bill will help reduce rising violent crime by enhancing penalties and keeping firearms away from juveniles. The juvenile justice system needs a complete overhaul. Juvenile rehabilitation has been neglected and lacks an advocate. Judges need flexibility to impose appropriate dispositions. Performance-based dispositions will improve rehabilitation. Law enforcement needs tools to address the problem of children on the streets. Basic training camps are an important sentencing alternative.

**TESTIMONY AGAINST (Law & Justice):**

The proposed revisions with regard to firearms are too restrictive.

**TESTIFIED TO STRIKING AMENDMENT (Law & Justice):** Norm Maleng, Washington Association of Prosecuting Attorneys (pro); John Ladenburg, Washington Association of Prosecuting Attorneys (pro); Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (pro); William Logan, Lewis County Sheriff; David Reynard (con); Al Woodbridge, Washington Rifle and Pistol Association (pro with amendments); Mel Jewell, Cowlitz County Juvenile Court Administrator (pro); Lieutenant Sue Rahr, King County Police (pro); George Aiton, Washington Arms Collectors (pro with amendments); John Turner, Mountlake Terrace Police Department (pro); Peter Berlinger, Children's Alliance (con); Brian Judy, National Rifle Association (pro with amendments)

**TESTIMONY FOR (Ways & Means):** None

**TESTIMONY AGAINST (Ways & Means):** None

**TESTIFIED (Ways & Means):** No one