

SENATE BILL REPORT

SB 6043

AS REPORTED BY COMMITTEE ON WAYS & MEANS, FEBRUARY 8, 1994

**Brief Description:** Pertaining to youth violence.

**SPONSORS:** Senators A. Smith, Nelson, Niemi, Quigley, Erwin, Haugen, Sheldon, Oke, McAuliffe and Ludwig

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 6043 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

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

**Hearing Dates:** January 20, 1994; January 28, 1994

**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** That Second Substitute Senate Bill No. 6043 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chairman; Quigley, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Ludwig, McDonald, Moyer, Niemi, Pelz, L. Smith, Snyder, Spanel, Talmadge, Williams and Wojahn.

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

**Hearing Dates:** February 7, 1994; February 8, 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:**

A number of revisions are made to the Uniform Firearms Act and the Juvenile Justice Act with respect to firearms and minors, and juvenile dispositions.

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 24 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.

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.

Block Grants to Counties. The sum of \$10 million is appropriated for the biennium ending June 30, 1995 from the general fund to the Department of Community Development (DCD) for the purpose of making block grants to the counties.

The block grants are for the purpose of preventing youth violence, enhancing youth diversion programs, enhancing

juvenile detention capabilities, and providing alternatives to conventional juvenile detention.

DCD must allocate the funds through a formula based upon a number of factors. The county legislative authority must apply for the grant with a plan which is endorsed by the local law and justice council.

**EFFECT OF PROPOSED SUBSTITUTE:**

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.

Language is added to the statute on possession of firearms by minors which prohibits anything from interfering with the right to use a firearm in self defense as set forth in the defenses statute.

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.

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.

**EFFECT OF PROPOSED SECOND SUBSTITUTE:**

Funding for the youth prevention block grants is deleted and the youth violence account is subject to appropriation.

**Appropriation:** \$10 million

**Revenue:** none

**Fiscal Note:** available

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

The ever-escalating problem of youth violence is addressed by focusing on an array of juvenile issues including firearm delivery and possession, prosecution of certain juvenile offenders as adults, enhanced sentencing, restitution, and block grants to counties for juvenile programs.

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

The proposed revisions with regard to firearms are too restrictive.

**TESTIFIED (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):**

Prosecutors support this bill as good state policy; however, the fiscal notes could use further examination. This legislation should be considered in context with prevention and intervention programs.

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

**TESTIFIED (Ways & Means):** Lewis L. Andrews, Puget Sound Educational Service District/Violence Prevention; Laurie Lippold, Children's Alliance; Walter Ball, AWSP