

# HOUSE BILL REPORT

## HB 1563

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### As Reported By House Committee On:

Corrections

**Title:** An act relating to juvenile offenders.

**Brief Description:** Modifying juvenile disposition.

**Sponsors:** Representatives Ballasiotes, Quall and Costa; by request of Governor Lowry and Attorney General.

**Brief History:**

**Committee Activity:**

Corrections: 2/17/95, 2/24/95 [DPS].

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### HOUSE COMMITTEE ON CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Sherstad, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; K. Schmidt and Schoesler.

**Staff:** Rick Neidhardt (786-7841).

**Background:** The Juvenile Justice Act establishes standard ranges that guide judges in imposing confinement, community supervision, community service, and fines on juveniles.

Disposition ranges.

Juveniles are divided into three categories: serious offenders, middle offenders and minor/first offenders. Within each category, a series of standard ranges are established depending on the number of "points" that attach to the juvenile's current offense, criminal history, and age.

### Serious offenders

The longest sentences ("dispositions") are reserved for serious offenders. A "serious offender" is defined as a juvenile who is 15 years old or older and who commits a particularly severe offense.

### Classification of offenses.

The relative severity of a juvenile offense determines whether the offense is classified as an A, B, C, D or E offense. The Category A offenses are the most severe; the Category E offenses are the least severe.

### Treatment for chemical dependency.

Juvenile offenders can receive treatment services for chemical dependency during their confinement. Current law does not have a separate sentencing option for juveniles with chemical dependency problems.

### Parental involvement in juvenile court.

A concern exists that many parents need to become more involved when their children are going through the juvenile justice system.

### Diversion agreements.

Diversion agreements are contracts between a juvenile court's diversionary unit and a juvenile in which the juvenile agrees to fulfill certain conditions in lieu of prosecution. Juveniles are eligible for diversion only if they have committed a misdemeanor, gross misdemeanor or some Class C felonies. Juveniles may only go through diversion twice.

The conditions that can be imposed through a diversion agreement include: community service, restitution, fines of up to \$100, attendance at up to 10 hours of counseling sessions, attendance at up to 20 hours of educational sessions, attendance at school for certain hours of the day, and being at home for certain hours of the day.

### Purposes of the Juvenile Justice Act.

The Juvenile Justice Act includes a statement of purposes. Included in these purposes are protecting the public from criminal behavior, making juvenile offenders accountable, providing punishment commensurate with the juvenile's age, crime and criminal history, ensuring due process for juveniles accused of committing offenses, and providing for rehabilitation, confinement, supervision and restitution.

Juvenile Disposition Standards Commission.

The Juvenile Disposition Standards Commission recommends to the Legislature disposition standards for juvenile offenses. The commission is chaired by the designee of the Secretary of the Department of Social and Health Services. Current law provides that the members shall include a prosecuting attorney, a judge, a law enforcement officer, a juvenile court administrator, a public defender, a county official, and three other individuals interested in juvenile justice.

Sentencing Guidelines Commission.

The Sentencing Guidelines Commission recommends to the Legislature sentencing standards for adult offenses. The commission does not currently provide staff or services to the Juvenile Disposition Standards Commission.

Parole.

The Juvenile Rehabilitation Administration (JRA) has discretion to impose post-confinement parole conditions. When a juvenile is placed on parole, JRA must include conditions that the juvenile not possess deadly weapons and that the juvenile refrain from committing new offenses. JRA may also include additional conditions, including medical or psychiatric treatment, reporting to a parole officer, pursuing academic or vocational schooling, and remaining within specified geographical boundaries.

Arrest warrants.

JRA is authorized to issue arrest warrants for juveniles who escape from JRA's custody.

Dispositional hearings.

Dispositional hearings involve the sentencing of a juvenile who has been found guilty of committing a criminal offense. Sometimes a juvenile who lives in one county is found guilty of committing an offense in another county. When this happens, the trial judge has discretion to transfer the dispositional hearing to the juvenile court in the county where the juvenile lives.

Prosecutorial guidelines.

Many, if not all, of the county prosecutors around the state have adopted recommended, non-binding guidelines that apply to their charging and plea disposition

decisions in juvenile court. These guidelines are not codified in Washington's statutes.

Similar guidelines are codified for prosecutor's charging and plea disposition decisions in adult court.

#### Governor's Council.

The Governor's Council on Families, Youth and Justice, established in 1994, examined Washington's juvenile sentencing system and recommended changes. The Governor and Attorney General have reviewed these recommendations and have proposed the following amendments to the juvenile sentencing laws.

#### **Summary of Substitute Bill:**

##### Disposition ranges.

For minor/first offenders, numerous narrow standard ranges are collapsed into a single broad range: 0 to 12 months of community supervision, 0 to 150 hours of community service and a fine of \$0 to \$100.

For middle offenders with fewer than 110 points, the various standard ranges are collapsed into a single broad range: 0 to 12 months of community supervision, 0 to 150 hours of community service, a fine of \$0 to \$100 and 0 to 30 days of confinement.

Mandatory minimum standard range sentences are established for first degree rape of a child (52 to 65 weeks) and for first degree child molestation (21 to 28 weeks).

For middle offenders who receive up to 30 days of confinement, the court must state reasons in writing if alternatives to confinement are not used.

##### Serious offenders.

The definition of "serious offender" is changed to remove the age limitation. Accordingly, a "serious offender" is any juvenile, regardless of age, who commits a particularly severe offense.

##### Classification of offenses.

The offense of failing to register as a sex offender is ranked as a Category C offense if the sex offense itself was a Class A felony. For all other sex offenses, failing to register is ranked as a Category D offense.

The offense of stalking is ranked as a Category D offense for a first stalking adjudication, and as a Category C offense for repeat stalking adjudications.

Treatment for chemical dependency.

A new disposition alternative for chemical dependency is created. Eligibility is limited to middle offenders, with more than 110 points, who are determined to be chemically dependent but amenable to treatment, and whose current offense is neither a sex offense nor a violent offense.

For eligible offenders, the court has discretion to impose the disposition alternative, which consists of a suspended standard range disposition and one year of community supervision. The court may impose additional conditions, including up to 30 days of confinement and up to 90 days of inpatient or outpatient substance abuse treatment.

Failure to comply with the court's conditions, or failure to make satisfactory progress in treatment, may result in imposition of the standard range disposition that was previously suspended.

Parental involvement in juvenile court.

Parents are required to attend detention hearings, adjudication hearings and disposition hearings. Failure to attend can result in contempt of court.

A limited parent/child evidentiary privilege is established. The privilege protects parents from being questioned about statements their child makes to the attorney in the parents' presence. The privilege does not apply to statements made prior to the filing of charges.

Diversion agreements.

Parents and the juvenile offender may be required to participate together in counseling sessions. Diversion agreements are no longer limited in the number of hours they can require a juvenile to participate in counseling, educational or informational sessions.

Diversion agreements can require the juvenile to participate in adult mentoring programs and community monitoring programs.

Purposes of the Juvenile Justice Act.

The purposes of the Juvenile Justice Act are expanded to include:

- ensuring that the juvenile justice system does not disproportionately affect racial and ethnic families; and

- encouraging parental participation in the juvenile justice process.

#### Juvenile Disposition Standards Commission.

The membership of the commission is changed, including having the chair appointed by the Governor and allowing four legislators to be nonvoting members.

The commission must recommend to the Legislature by December 1, 1995, disposition standards and sentence ranges that:

- emphasize confinement for violent and repeat offenders;
- ensure increased judicial flexibility and discretion;
- emphasize alternatives to total confinement for nonviolent, chemically dependent or mentally ill offenders;
- simplify the sentencing system; and
- give primary consideration to the severity of the offense, with the offender's criminal history and age being given secondary consideration.

#### Sentencing Guidelines Commission.

The commission shall provide services and staff to the Juvenile Disposition Standards Commission.

#### Parole.

JRA is authorized to impose additional conditions on juveniles who are placed under parole supervision. The additional conditions include: (1) offense-related treatment programs; (2) maintaining employment; (3) notification of residential address; (4) being restricted to be at a specific location at certain hours; (5) electronic monitoring; (6) submission to urinalysis; and (7) not associating with specified individuals or groups.

#### Arrest warrants.

JRA's authority to issue arrest warrants is expanded to include parole violations.

#### Dispositional hearings.

Only when the juvenile's standard range of confinement exceeds 30 days may the trial court may transfer the juvenile's disposition hearing to the county where the juvenile resides.

Prosecutorial guidelines.

Recommended, non-binding guidelines are established addressing the decisions prosecutors make on charging and plea agreements. The recommended guidelines parallel those already established for prosecutors in the adult criminal justice system.

Miscellaneous.

The Department of Social and Health Services shall report annually to the Legislature on the security of juvenile facilities, including statistics on escapes, authorized leaves, and juveniles in the community on minimum security status.

**Substitute Bill Compared to Original Bill:** The original bill directed that the Juvenile Disposition Standards Commission would cease to exist on June 30, 1997, at which time its duties would be transferred to the Sentencing Guidelines Commission. The original bill placed the executive director of the Sentencing Guidelines Commission under the Governor's appointment authority. The original bill required juvenile courts to hold hearings, if possible, during nonstandard hours. The original bill required a study on possible ways to implement a youthful offender sentencing option.

The substitute bill added provisions that would allow diversion agreements to include a requirement that parents and juvenile offenders participate together in counseling sessions.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Broadened standard ranges will make for better sentencing of juveniles. This bill will help to increase parental accountability. The bill will help address racial and ethnic disproportionality in the juvenile justice system. The bill enhances the juvenile justice system's rehabilitative capacity. Increasing the intensity of parole conditions and expanding authority for the issuance of arrest warrants will improve juvenile justice. There are good provisions in this bill that overlap with HB 1255.

**Testimony Against:** The deadline for the Juvenile Disposition Standards Commission to recommend new disposition standards should be moved later than December 1995. The commission should be kept independent from the Sentencing Guidelines Commission. The Governor should not have appointment authority over the Sentencing Guidelines Commission's executive director. Holding juvenile court hearings during nonstandard hours is expensive and when tried in the past it has not significantly increased parental

participation. Alternative sentencing providing substance abuse treatment should be restructured to allow for earlier intervention.

**Testified:** Judge Roseanne Buckner, Superior Court Judges Association (supports); Dick Van Wagenen, Sentencing Guidelines Commission (with concerns); Nelson Hunt, Washington Association of Prosecuting Attorneys (supporting portions of the bill, but preferring HB 1255 over other portions of the bill); Margaret Casey, Washington State Catholic Conference (supports some provisions, opposing other provisions); Vickie Wallen, Governor's Office (supports); and Sid Sidorowicz, Juvenile Rehabilitation Administration (supports).