HOUSE BILL REPORT
SSB 6208

As Reported By House Committee On:
Children & Family Services

Title: An act relating to at-risk youth.

Brief Description: Revising procedures for at-risk youth.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Winsley and Oke).

Brief History:
Committee Activity:
Children & Family Services: 2/24/98, 2/26/98 [DPA].

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 11 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

Staff: Douglas Ruth (786-7134).

Background: In 1995, the Legislature passed a comprehensive act dealing with runaway, truant, and at-risk youth. The act is commonly referred to as the Becca Bill. Part of the act dealt with parents' rights to seek chemical dependency and mental health treatment for their minor children. The Legislature intended to broaden parents' rights to seek professional help for their children without the necessity of a court proceeding.

The Washington State Supreme Court ruled, in *State v. CPC Fairfax Hospital*, 129 Wn2d 439 (1996), that the mental health treatment process set up by the Becca Bill allowed a child to be released from treatment upon his or her request, unless the parents filed a petition under the state's involuntary commitment procedures. The child who was the subject of the *CPC Fairfax* case was not released upon her request, nor did her parents file a petition with the court. The court therefore ruled that the child's due process rights were violated. The court did not rule on the constitutionality of the ability of parents to seek treatment for their children.

In 1997, the Legislature passed ESSB 5082 in response to the court's ruling in *Fairfax*. The Governor vetoed the bill in its entirety citing due process and fiscal concerns.

A second part of the Becca Bill was the establishment of secure crisis residential centers for at-risk youth who have run away from home. The department was given the option to contract with private organizations to provide Crisis Residential Centers (CRCs). The selection and operation of the centers are regulated by many provisions of the bill. One regulation prohibits the placement of secure CRCs on the grounds of detention or corrections facilities unless there are no other practical locations for secure CRCs.

Similarly, the department was directed to establish staff-secure facilities for long-term placement of at-risk youth. The courts were authorized to order placement of youth at these facilities for treatment.

A third component of the 1995 Becca Bill provided parents court access to deal with issues relating to their children's behavior. Those petitions are known as "Children in Need of Special Services" (CHINS) and "At-Risk Youth" (ARY) petitions. Violations of court orders entered in response to CHINS and ARY petitions are punishable by contempt of court. Two recent appellate court decisions have limited the use of contempt in CHINS and ARY proceedings.

As a means of getting youth off the streets and into treatment, the Becca Bill also made harboring at-risk youth a crime. To be guilty of harboring, a person must fail to disclose the location of a runaway, prevent the release of the child to an officer, assist the runaway in avoiding an officer, or obstruct an officer in detaining a runaway. Harboring is punishable as a gross misdemeanor. The Becca Bill also required persons to report the whereabouts of runaway youth.

Summary of Amended Bill:

COMMITMENT TO MENTAL HEALTH OR SUBSTANCE ABUSE TREATMENT

The processes for the admission of a child to mental health or chemical dependency treatment are clarified by clearly separating the procedures for: (1) voluntary outpatient and inpatient treatment, (2) parent-initiated treatment, and (3) court-authorized involuntary treatment petitions.

Mental health and chemical dependency treatment of children is allowed, without the child's consent, when the decision is made by a medical professional at the request of a parent.

Admitting professionals may admit a child to treatment when the professional determines the treatment is medically necessary. The professional must be appropriately trained, as provided by rule, to conduct the evaluation. The evaluation must be completed within

24 hours unless the professional determines additional time is necessary. The child cannot be held longer than 72 hours without being admitted or discharged. During the evaluation period, the professional may only provide such treatment as necessary to stabilize the child's condition. The child must be provided with a statement of his or her rights within 72 hours of admission.

The independent review of the professional's decision to treat the child is made on the basis of whether the continued treatment is medically necessary, which is defined. The review must be conducted by a professional person and occurs between seven and 14 days after admission to the facility. If the department determines that the treatment is no longer medically necessary, and the parents and the treating professional disagree, the facility may hold the child for up to three judicial days in order to allow the parents to file an At-Risk Youth Petition with the court.

Five days after the independent review, the child may file a petition requesting judicial review. At the hearing, the facility or parents must show the medical necessity for continued treatment. The child must be notified of this right on admission.

Thirty days after the independent review or judicial review, whichever is later, a professional person or a county designated mental health professional must file a petition under the Involuntary Treatment Act or the child must be released. The department may contract out the independent reviews. The child must be released upon written request of the parent.

Minors who admit themselves to treatment must be discharged once they have requested release. Similarly, discharge must occur when a parent requests release of his or her self-admitted child.

The Department of Health must conduct a survey of providers of mental health services to minors. The survey collects information relating to parental notification of their minor children's outpatient mental health treatment.

Parents are notified of their child's chemical dependency treatment only if the child consents to the notice or the treatment provider determines the child lacks the capacity to provide consent to the notice. The chemical dependency notice provision is based upon federal law.

CRC REQUIREMENTS AND COUNTY CONTROL OF TREATMENT CENTERS

The department's duty to provide treatment facilities and services under RCW 13.32A.197 may be delegated to the counties. A county, or group of counties, is authorized to apply for funding to administer the facilities and services for their population. An interested county must present to the department an application and plan for providing the services.

Funds may be distributed according to criteria formed by the department, but including the county's at-risk population, rate of poverty, per capita income and other demographic criteria. Funds shall be distributed on a reimbursement basis once the county meets the terms of its plan. The funds given to counties may not replace local funds for existing programs and may not exceed the biennial appropriations for these facilities and services.

County administered treatment facilities must be licensed by the department and appropriately staffed. A county may not restrict use of the treatment center to its residents.
The department or a county may locate a secure CRC on the grounds of a detention center. The staffing ratio at secure CRCs is changed from no more than three to eight, to no less than one to 10.

CONTEMPT PROCEDURES

The type of contempt sanctions available to a court, and the process for imposing them, are clarified. The current contempt sanctions for truancy, dependency and at-risk youth actions are declared civil (remedial) contempt sanctions. The court will use the civil contempt procedure for processing contempt actions, as described in RCW 7.21.030. This process does not require the involvement of a prosecuting attorney.

HARBORING RUNAWAYS

The crime of unlawful harboring is expanded to include providing shelter to a runaway with the intent to engage the child in a crime or contribute to the child's delinquency. Failing to report the location of a runaway for the same reason is made a misdemeanor crime.

JUVENILE JUSTICE GRANT PROGRAM

A new grant program is created to be used by local entities and organizations to deter juvenile violence and delinquency. The Governor's Juvenile Justice Advisory Committee is required to administer the newly created Juvenile Violence Grant Program

All entities applying for one of these grants must specifically:

(a) Identify the program or proposed program;

(b) Identify the entity or organization proposing the program. Eligible organizations include, but are not limited to, nonprofit, civic and charitable organizations, local governments, tribes, and community networks;

(c) Include a budget for the expenditures of requested grant funds and specify what percentage of the grant will be spent on administration and evaluation costs; and

(d) Include a plan to analyze the effectiveness of the program.

The committee may require that a percentage of the expenditures from a received grant be spent to evaluate the program's effectiveness. The committee may also require that the evaluation be conducted by individuals or organizations that are not participating in the program.

A program is eligible for a Juvenile Violence Prevention Grant if the program:

(a) Is designed to reduce conditions associated with the entry of youth into the juvenile justice system;
(b) Is a new program or replicates in another location an existing program that meets the criteria of this chapter;
(c) Is based on research that supports the program's effectiveness in reducing the targeted populations risk for delinquency;
(d) Has community support and is community-based;
(e) Will be used for prevention of juvenile crime and not as a disposition or confinement option for adjudicated or diverted juvenile offenders. The program is not precluded from serving juveniles who have been adjudicated or diverted prior to participation in the program or who are diverted or adjudicated during participation in the program; and
(f) Is in addition to any other state or locally funded juvenile violence deterrence program.

Any funding from this grant cannot supplant existing federal, state, or local funds.

To encourage local ownership of Juvenile Violence Deterrence Programs, grants awarded by the committee must:

(a) Have a duration of up to two years, with renewal options based on the achievement of outcomes; and
(b) Not exceed more than 75 percent of the total estimated cost of a program. Entities or organizations applying for grants under this section must demonstrate that at least 25 percent of the cost of the program will be funded from non-state funds.

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A review team must be established to make recommendations to the Governor's Juvenile Justice Advisory Committee on the funding of grants. Appointees must represent the state's geographic and cultural diversity and have demonstrated an interest in juvenile violence and its prevention. The membership of the team must include representatives from various groups.

Amended Bill Compared to Amended Bill: Provisions relating to CRC staffing ratios and siting, county operation of staff-secure treatment centers, and expansion of the harboring law were added.

The procedure for parental admission of a minor was changed to require notification to the minor of his or her right to petition for superior court review. Throughout the mental health treatment provisions, the term "admission" was changed to "held for treatment."

The procedures for voluntary admission for treatment were changed. The amended bill removes a treatment center's option to file a judicial proceeding to retain a voluntarily admitted minor who has requested release or whose parents have requested release.

The juvenile justice grant program was added to the bill.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill responds to the concerns and inconsistencies in the statute identified by the supreme court in the Fairfax decisions. It allows well intentioned parents to get treatment for their child, while insuring that malevolent parents do not abuse the mental health and chemical dependency treatment procedures. It addresses the concerns of the Governor regarding due process for these children. The bill is an improvement over the current procedure and past proposals. Further improvements could be made by notifying the department of parental admissions, by remedying inconsistent provisions regarding release of a voluntarily admitted child, and by eliminating the time period for admissions.

Testimony Against: Some parents send their children out of the country to treatment programs that are unhealthy for children. This bill encourages this activity. The medical necessity definition creates a low standard of admissions since mental disorder includes many types of behaviors that are not connected to a mental illness. The bill violates due process since it relies on a biased professional to decide whether it is medically necessary for a child to receive inpatient treatment. The professional has a fiduciary interest in having the child admitted. Since the average stay for a minor is 14 days, many minors will not receive an independent review of their admission prior to release. Federal reports indicate that fraudulent practices do occur at mental health hospitals. Without independent review, private hospitals may admit children to increase their revenues, not because the child has a condition which needs treatment. The bill does not prevent this scenario. Mental health treatment is only marginally effective anyway. A recent state report indicates that 75 percent of patients do not improve with hospitalization.

Testified: Senator James Hargrove (prime sponsor); Bill France, Snohomish County Prosecutor's Office (concerns); Richard Warner, Citizens Commission on Human Rights

(con); Jann Hoppler, DSHS Mental Health (pro with concerns); and Martha Harden, Superior Court Judges Association (pro with concerns).