

# HOUSE BILL REPORT

## E2SSB 6445

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### As Passed House - Amended:

March 4, 1998

**Title:** An act relating to the placement of children under the jurisdiction of the department of social and health services.

**Brief Description:** Modifying provisions relating to children placed in community facilities.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Long, Hargrove, Haugen, Zarelli, McAuliffe, Franklin, and Winsley).

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/27/98 [DPA];

Appropriations: 2/28/98 [DPA(CJC/APP)s].

#### Floor Activity:

Passed House - Amended: 3/4/98, 97-0.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Ballasiotes, Chair; Benson, Vice Chair; Koster, Vice Chair; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell; Radcliff; and Sullivan.

**Staff:** Mark Hamilton (786-7310).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Criminal Justice & Corrections as such amendment is amended by Committee on Appropriations. Signed by 31 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

**Staff:** Beth Redfield (786-7130).

**Background:** In September 1997, a 17-year-old resident in a Juvenile Rehabilitation Administration (JRA) community placement group home walked away from his job and raped and murdered a 12-year-old babysitter during a burglary. The subsequent investigation revealed that JRA did not have vital school record information and information regarding the juvenile's previous law enforcement encounters.

The federal Family Education Rights and Privacy Act (FERPA) limits the transfer of education records to transfers with the prior notice and consent of both juveniles and their parents. FERPA provides two exceptions for transfers for law enforcement purposes: (1) records may be transferred prior to trial in order to effectively serve the juvenile (these transfers generally require prior notification to the juvenile and his or her parents); and (2) after conviction, records may be transferred without consent only by a subpoena containing a non-disclosure order.

Current Washington statutes do not reflect the most recent changes in FERPA and may provide conflicting direction to the schools. JRA has had difficulty obtaining complete and timely records necessary for conducting risk assessment of juveniles placed with the agency.

**Summary of Bill:** *Group Home Siting Procedures.* The Department of Social and Health Services (DSHS) must establish a process for community involvement in the siting of JRA group homes through mandated public hearings.

*Community Placement Oversight Committees.* The department must establish a process with local governments that allows each community to establish a community placement oversight committee. The committees review and make a recommendation regarding placement of juveniles in the community facility. The Legislature intends that committees, their members and the agencies represented by the members be immune from liability for their good faith actions in placement decisions.

*Occupant Commingling.* DSHS must adopt a policy for the common use of group homes for JRA and non-JRA children. DSHS must not place juveniles who commit any class A felony with non-JRA children, unless they are either housed in separate living units or the placement is part of a specialized treatment program.

*Violation Policy.* DSHS must establish a violation policy that includes a definition of serious infractions and serious violations. All criminal offenses and all drug or alcohol violations are defined as serious violations. DSHS must return juveniles who commit serious infractions or serious violations of their placement conditions to an institution. Juveniles who have been returned to an institution following a violation may not subsequently be placed in a community facility until a new risk assessment is completed and the secretary determines that the juvenile can adhere to the conditions

of the community facility placement. DSHS must maintain records of juveniles' infractions and violations.

Violation Reporting. Each service provider must report to DSHS every known violation or infraction a juvenile offender commits. Serious infractions and serious violations must be reported immediately upon discovery. All other infractions and violations must be reported within 24 hours of discovery. DSHS must document reported violations. Service providers that fail to report juveniles' known violations are subject to both monetary penalties and contract sanctions or termination. DSHS must give great weight to a service provider's record of infractions and violations in any execution, renewal, or renegotiation of the service provider's contract.

Toll-Free Telephone Line for Violation Reporting. DSHS must publish and maintain a staffed 24-hour toll-free phone line for reporting a juvenile's violations of community placement conditions. The phone number must be distributed to the persons most likely to have contact or supervisory authority over any juvenile. It must also be included in all service provider contracts and monitoring agreements.

Occupant Monitoring. Any juvenile placed in a school, work, or volunteer situation must be subject to monitoring agreements. These agreements acknowledge the juvenile's status as an offender, provide for notification when they discover any condition is breached, and provide for accountability checks and performance reviews of the juvenile by the JRA group home. The agreements must be in writing and signed by the juvenile, the employer, supervisor, or school, JRA, and the contracting service provider. Both DSHS and the service providers must keep a copy of the executed agreements.

Eligibility for Placement. Juveniles are not eligible for placement in a community facility until they have spent at least 10 percent of their sentences, but not less than 30 days, in a secure institution.

Eligible juveniles may not be placed in a JRA group home unless:

- (1) The juvenile's school records have been received and reviewed in conjunction with other information to conduct a risk assessment and security classification and the risk assessment, including a determination of drug and alcohol abuse, is complete;
- (2) The completed risk assessment indicates that the juvenile will not pose more than a minimum risk to public safety;
- (3) The community placement oversight committee, if one exists, has reviewed and acted on the placement; and

(4) Local law enforcement has been properly notified.

*Educational Records.* The department must request education records for first-time offenders after conviction by a subpoena. The prosecutor or local probation department must request records for all juveniles with one or more previous convictions prior to trial. The Legislature intends that education records will be used to perform a risk assessment that will assist JRA to address individual needs, to serve the juvenile effectively, and to provide juveniles with the best placement to assist them to successfully make a smooth transition to non-offender status.

*Employee Background Checks.* Employees and volunteers must pass background checks. Persons who have committed sex offenses or violent offenses are prospectively disqualified from positions in which they may have more than nominal access to JRA children. Failure to report a post-employment conviction constitutes misconduct.

*Group Home Study.* The Washington State Institute for Public Policy must conduct a study that includes an evaluation of the: (a) security, staffing and operation; (b) offender intake and assessment procedures; (c) violation history and appeals process for violations and infractions committed by juveniles; (d) community notification and participation in the facility and offender placement process; (e) juvenile detention standards; and (f) recidivism rates of non-sex offender juveniles receiving parole services compared with those not receiving parole services.

*Null and Void Clause:* The act is null and void if specific funding is not provided in the omnibus appropriations act to implement it.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 27, 1998.

**Effective Date:** The bill takes effect on September 1, 1998. However, the bill is null and void unless funded in the budget.

**Testimony For:** (Criminal Justice & Corrections) The bill addresses, point by point, the problems which were identified with the regard to group home siting and procedures. The public notice and community placement committee provisions enable representatives from the locality in which a group home to participate in the process. Communities do not want responsibility for making decisions on placement of juveniles in homes, but do want involvement. Providing access to juveniles' school records gives more information, and therefore leads to the ability to make better decisions regarding their placement in group homes. *Concerns:* The study should address outcomes and national accreditation, in addition to quality of staff and security. The striking amendment addresses the concerns expressed.

(Appropriations) None.

**Testimony Against:** (Criminal Justice & Corrections) None.

(Appropriations) None.

**Testified:** (Criminal Justice & Corrections) *Pro:* Senator Jeanine H. Long, prime sponsor; and Sid Sidorowicz, Assistant Director, Department of Social & Health Services, Juvenile Rehabilitation Administration. *With Concerns:* Peter Berliner, The Children's Alliance; Jennifer Paddock, Program Manager, Friends of Youth; Laurie Lippold, Children's Home Society; and Kathleen Gerke, Association of Washington Cities.

(Appropriations) None.