

HOUSE BILL REPORT

ESB 5692

As Reported by House Committee On:
Juvenile Justice & Family Law
Appropriations

Title: An act relating to authorizing the participation of youth as decision makers in dispositions of minor offenses and rules violations.

Brief Description: Creating youth courts.

Sponsors: Senators Costa, Long, Hargrove, Rasmussen and Kohl-Welles.

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 2/21/02, 2/28/02 [DPA];
Appropriations: 3/2/02, 3/4/02 [DPA(APP w/o JJFL)s].

Brief Summary of Engrossed Bill
(As Amended by House Committee)

- Authorizes otherwise diversion-eligible juvenile offenses, civil infractions, and traffic infractions to be diverted to youth courts under certain circumstances.
- Requires the Office of the Administrator for the Courts to encourage juvenile courts to work with cities, counties, and schools to implement, expand, or use youth court programs.
- Requires the Office of the Superintendent of Public Instruction to encourage school districts to implement, expand, or use student court programs for students who violate school rules and authorizes local school boards to provide school credit for participation in youth court.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: Do pass as amended. Signed by 6 members: Representatives Dickerson, Chair; Darneille, Vice Chair; Delvin, Ranking Minority Member; Armstrong, Eickmeyer and Tokuda.

Minority Report: Do not pass. Signed by 1 member: Representative Carrell.

Staff: Trudes Hutcheson (786-7384).

Background:

Youth court programs exist across the country and are generally designed to provide an alternative within the juvenile justice system juvenile offenders. In these programs, the appropriate sanction for a juvenile offender is determined by his or her peers. Juveniles participate in the youth court as jurors, lawyers, bailiffs, clerks, and judges.

Diversion is a contract between a juvenile accused of a criminal offense and a diversionary unit where the juvenile agrees to fulfill certain conditions in lieu of prosecution. Diversion agreements may be entered into only after the prosecutor or probation officer determines that there is probable cause to believe that the juvenile has committed the crime.

The prosecutor must divert the case if the alleged offense is a misdemeanor, gross misdemeanor, or violation, and it is the offender's first offense or violation.

The juvenile is not eligible for diversion if:

- (a) The alleged offender is accused of a class A felony, class B felony, an attempt to commit a class B felony, a class C felony listed as a crime against persons or listed as a crime of harassment, or a class C felony that is an unlawful possession of a firearm;
- (b) the alleged offender is accused of a felony and has a criminal history of any felony, or at least two gross misdemeanors, or at least two misdemeanors;
- (c) the alleged offender has previously been committed to the Juvenile Rehabilitation Administration;
- (d) the alleged offender has been referred by a diversion unit for prosecution, or desires prosecution instead of diversion;
- (e) the alleged offender has two or more diversion agreements on the offender's criminal history; or
- (f) the alleged offender or an accomplice was armed with a firearm when the offense was committed.

In most other cases, the prosecutor has discretion regarding whether to divert the case based on the length, seriousness and recency of the offender's criminal history, and on the circumstances surrounding the commission of the present offense.

A diversion agreement is limited to one or more of the following dispositions: (1) community service up to 150 hours; (2) restitution in the amount of the actual loss incurred by the victim; (3) up to 10 hours of counseling and/or 20 hours of educational or informational sessions; (4) a fine not to exceed \$100; (5) specific restrictions on the juvenile's movement; and (6) a requirement that the offender refrain from contact with the victim or witnesses.

Traffic and civil infraction cases involving juveniles under the age of 16 are under the jurisdiction of the juvenile court and may also be diverted. Dispositions in those cases are limited to 30 hours of community service, or educational or informational sessions. Traffic infractions for juveniles 16 and older are handled in the courts that have jurisdiction over adult traffic infractions.

Summary of Amended Bill:

A. Youth Courts for Criminal Offenses

The Office of the Administrator for the Courts must encourage the juvenile courts to work with cities, counties, and schools to implement, expand or use youth court programs for juveniles who commit diversion-eligible offenses and civil or traffic infractions. They must be developed in accordance with guidelines from youth court experts, target offenders between the ages of 8 and 17, and emphasize certain principles, such as accountability, problem solving and education regarding the consequences of certain behaviors. They may be established by private nonprofit organizations or schools, with the approval and under the supervision of the juvenile court.

Youth courts have authority over juveniles who, along with a parent or guardian, voluntarily request youth court involvement. The juvenile must admit to committing the offense, waive any privilege against self-incrimination, and agree to comply with the disposition ordered by the youth court. A juvenile also must be accompanied by a parent or guardian at all youth court appearances. Victims are given the opportunity to be notified, be present, and be heard at youth court proceedings.

Youth courts do not have authority over youth who are under the continuing jurisdiction of the juvenile court. Youth courts also may decline to accept a juvenile disposition for any reason, and may terminate a youth from youth court participation at any time. A youth may withdraw from the process at any time. The juvenile court is notified upon successful completion of the disposition, including complete satisfaction of any ordered restitution.

In addition to disposition options available under diversion, youth courts are authorized to order the youth to participate in law-related classes, mentoring programs, and future youth court proceedings. The youth court may also require the youth to periodically report to the youth court and write apology letters and essays. The youth court may not order confinement. Dispositions must be completed within 180 days from the date of referral. Juveniles can be required to pay not more than \$30 to cover the costs of youth court and pay reasonable fees for any counseling or education that is ordered.

B. Youth Court for Traffic Infractions

Youth courts for juveniles ages 16 and 17 who have committed traffic infractions may be established under the supervision of a court of limited jurisdiction. To be referred to youth court for a traffic infraction, the juvenile may not have any prior traffic infractions that were referred to youth court, may not be under the jurisdiction of any court for any other traffic violation, and must acknowledge that there is a high likelihood that he or she would be found to have committed the infraction. Conditions applicable to traffic infractions in youth courts are similar to those available in youth courts for criminal offenses, and also include the ability of the court to require driver improvement classes. Monetary penalties collected under a youth court agreement are deposited and distributed in the same manner as penalties collected by the municipal and district courts for traffic infractions.

C. Youth Courts for School Violations

The Office of the Superintendent of Public Instruction must encourage school districts to implement or expand student court programs for students who violate school rules. Local school boards are authorized to provide school credit for participation in youth court.

Amended Bill Compared to Original Bill:

The striking amendment clarified procedures that apply to youth courts for traffic infractions by: (a) specifying that such youth courts will be established by courts of limited jurisdiction; (b) specifying that youth court agreements for traffic infractions may extend beyond the youth's eighteenth birthday; (c) authorizing the court to charge the youth a fee (up to \$30) to cover the costs of administering the program; (d) specifying that monetary penalties imposed are distributed in the same way monetary penalties for traffic infractions are currently handled in courts; and (e) removing provisions that were not applicable to traffic infractions (i.e., referrals to the prosecuting attorney, language regarding confinement, and other similar provisions). Regarding youth courts in the criminal context, the amendment specifies that youth courts may be established by nonprofit entities or schools upon the approval of the juvenile court, and that youth courts cannot be established by law enforcement. The striker also requires that the Office of the Administrator for the Courts provide available data on youth courts to the sentencing guidelines commission and that the commission, as part of its report to the Legislature, report on the impact of diversions on racial disproportionality, if such information is available.

Appropriation: None.

Fiscal Note: Requested on February 19, 2002.

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

Testimony For: This bill allows youth some meaningful involvement in the court system. Youth must first qualify for a diversion before going into youth court. Diversion programs have been in place for many years, and youth courts would be a component of diversion. Youth courts would be very similar to community boards in diversion. The youth participating would be trained by prosecutors and other volunteers. The youth courts would be appropriately supervised by adults. It does not cost too much to start youth courts. On a national basis, there are over 900 youth courts. This bill provides operational guidelines for youth court programs in this state and would make it easier for programs to apply for funding and grants for youth courts. Youth courts teach students about consequences and other important skills and provide a good outlet for students interested in law. The process for distributing monetary penalties by the court needs to be clarified.

Testimony Against: None.

Testified: Representative Costa, prime sponsor; Martha Harden, Superior Court Judges Association; and Daniel J. Erker, Washington Association of Juvenile Court Administration.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Juvenile Justice & Family Law. Signed by 21 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Clements, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Mastin, McIntire, Pearson, Ruderman, Schual-Berke and Tokuda.

Minority Report: Do not pass. Signed by 4 members: Representatives Buck, Lisk, Pflug and Talcott.

Staff: Linda Brooks (786-7153).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Juvenile Justice & Family Law:

The amended bill removes provisions that prohibited youth courts and diversion units from considering a parent's financial resources when imposing monetary penalties for traffic infractions and diverted offenses.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Youth courts are already operating, but some district court judges have concerns regarding whether they are valid courts. This legislation addresses those concerns and establishes some guidelines for all youth courts. The potential revenue impacts mentioned in the fiscal note are based on a youth court that deals with traffic infractions in Issaquah. The Issaquah youth court has chosen not to impose many fines, but that does not mean that other youth courts will choose likewise. The youth courts may impose up to a \$100 fine, and revenues from those fines will be distributed the same as other traffic infraction revenues. The youth court program is voluntary. Youth courts have shown good results and are effective in turning around the behavior of youths.

Testimony Against: None.

Testified: Senator Costa, prime sponsor; and Debbie Wilke, Washington Association of County Officials.