

HOUSE BILL REPORT

ESSB 5500

As Reported by House Committee On:

Juvenile Justice
Appropriations

Title: An act relating to programs and proceedings for children under the BECCA and HOPE acts.

Brief Description: Revising programs and proceedings for children under the BECCA and HOPE acts.

Sponsors: By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Long).

Brief History:

Committee Activity:

Juvenile Justice: 3/21/01, 3/28/01 [DPA];

Appropriations: 3/31/01, 4/2/01 [DPA(APP w/o JJ)s].

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

- Adds truancy to the definition of at-risk youth.
- Allows parents to convert a Child In Need of Services (ChINS) or truancy petition to an At-Risk Youth (ARY) petition.
- Provides greater discretion to the court to order risk and needs assessments, and to hold review hearings.
- Protects persons who shelter children pursuant to the HOPE Act and employees of semi-secure crisis residential centers from criminal and civil liability.
- Postpones the due date for the Washington State Institute for Public Policy (WSIPP) to prepare and submit an evaluation study on the outcomes for youth placed in HOPE centers.

HOUSE COMMITTEE ON JUVENILE JUSTICE

Majority Report: Do pass as amended. Signed by 7 members: Representatives Delvin, Republican Co-Chair; Dickerson, Democratic Co-Chair; Eickmeyer, Democratic Vice Chair; Marine, Republican Vice Chair; Armstrong, Darneille and Tokuda.

Minority Report: Without recommendation. Signed by 1 member: Representative Carrell.

Staff: Catherine Blinn (786-7114).

Background:

Children In Need of Services (ChINS):

A Child In Need of Services (ChINS) petition filed in juvenile court by a parent, child, or the Department of Social and Health Services (DSHS) seeks out-of-home placement for a child who has a history of running away; has a substance abuse problem; exhibits behavior endangering anyone's health, safety or welfare; is beyond the parents' control; needs necessary services such as food, shelter, health care, clothing or education; and/or whose parents have been unsuccessful or unwilling to maintain the family structure. Once a proper ChINS petition is filed, the juvenile court must schedule a fact-finding hearing, notify parents of their right to file an at-risk youth petition, and address the current placement of the child. At the conclusion of a fact-finding hearing, the court can dismiss the ChINS petition, approve the ChINS petition and approve a temporary out-of-home placement for the child, or dismiss the ChINS petition but approve an at-risk youth petition. At the dispositional hearing held within 14 days of the fact-finding hearing, the court may reunite the family and dismiss the ChINS petition, dismiss the ChINS petition but approve an at-risk youth petition, or order an out-of-home placement. If the child is placed out of the home, the court must hold a review hearing within 90 days to continue or discontinue the out-of-home placement. The court can dismiss a ChINS proceeding at any time if circumstances warrant it or if the child becomes the subject of a dependency action. Out-of-home placement may not continue past 180 days from the review hearing, at which time the child must return to a parent's home.

At-Risk Youth (ARY):

An At-Risk Youth (ARY) petition is a process by which parents may request and receive assistance from juvenile courts to provide appropriate care, treatment, and supervision of an at-risk youth. An at-risk youth is a child who is absent from home for at least 72 hours; is beyond the parents' control and exhibits behavior endangering anyone's health, safety or welfare; or who has a substance abuse problem but no pending criminal charges pertaining to the substance abuse problem. When a proper ARY petition is filed, the court must hold a fact-finding hearing to approve or dismiss the petition. At the dispositional hearing held within 14 days of the fact-finding hearing, the court must consider recommendations from the parties and the DSHS to assist parents in maintaining care, custody, and control of the child. The court shall hold a review hearing within 90 days of the dispositional hearing to continue or discontinue court supervision. Court

supervision may not continue past 180 days from the review hearing. The court can dismiss an ARY proceeding at any time if circumstances warrant it or if the child becomes the subject of a dependency action. The court must grant a parent's request to discontinue an ARY proceeding, unless a contempt action is pending or a ChINS petition is pending.

Truancy:

A truancy petition may be filed by a school district or parent when a student has an unacceptable number of unexcused absences, the school district has been unsuccessful in reducing the absences, and court intervention and supervision appear necessary. The court must inform the parents of the purpose and procedure for ChINS and ARY petitions. Once a truancy petition is approved, the court or truancy board must enter into an agreement with the student and the parents that establishes attendance requirements and takes any other action necessary to reduce the absences.

Immunity:

The HOPE Act of 1999 addressed the needs of homeless families with children, and created HOPE centers and responsible living skills programs. HOPE Centers provide temporary, residential placement for street youth, children in need of services, and dependent children. Responsible living skills programs provide residential and transitional services for dependent teenagers 16 to 18 years old who are unable to live in their authorized residences, and for dependent teenagers 14 to 15 years old who have no other placement alternative.

Crisis residential centers, their employees and other persons with whom children are placed pursuant to ChINS and ARY out-of-home placements are immune from civil or criminal liability for receiving the children, as long as they act reasonably and in good faith. Persons who provides shelter, without legal authorization, to runaway children are immune from liability as long as they promptly notify a parent, an appropriate law enforcement agency or the DSHS, and as long as there is no intentional misconduct or gross negligence.

Study of HOPE Centers:

The Washington State Institute for Public Policy (WSIPP) must review the effectiveness of HOPE centers and the responsible living skills programs. The study, to be submitted to the Legislature and the Governor by December 1, 2001, must include the following:

- The characteristics of the youth being served;
- The services offered to participating youth;
- The success of permanent placement of youth;
- The number of youth participating in each program;
- The number of youth who successfully complete the responsible living skills program;
- The educational achievement of participants;
- The employment history of participants;
- The outcomes for youth who have progressed through the programs; and

- Any other measures that the WSIPP deems helpful in determining the measurable outcomes of the HOPE act.

Summary of Amended Bill:

Children In Need of Services (ChINS), At-Risk Youth (ARY) and Truancy:

The definition of at-risk youth includes truants who also exhibit one of the other behavior factors already listed in the definition of at-risk youth. Parents may request that a ChINS or truancy petition be converted to an ARY petition, disposing of the need to file a new, separate petition and have the old petition dismissed. If an ARY petition that was originally filed as a truancy petition is dismissed, it shall revert to a truancy petition.

In addition, the court may order a risk and needs assessment for a child at any time during a ChINS, or ARY proceeding. At its discretion, the court may hold a hearing to review a ChINS or ARY matter at any time; however, the 180-day limit on court supervision still begins to run from the day of the review hearing. The court may also order a risk and needs assessment during a truancy proceeding once a child violates the truancy order. Within 14 days of the contempt finding for a violation of a truancy order and based on the results of the risk and needs assessment, the court can order any appropriate conditions of supervision, including regular school attendance, counseling, and participation in a substance abuse or mental health outpatient program.

A risk and needs assessment ordered by the court for a child must be conducted by juvenile court staff, a community agency identified by the court, or the DSHS if the DSHS has sufficient resources and agrees to perform the assessment.

Immunity:

Any person who receives or shelters a child with regard to the HOPE Act is immune from civil or criminal liability as long as the person acts reasonably, in good faith, and in compliance with the requirements of the HOPE Act. The grant of immunity applies to both HOPE centers and responsible living skills programs. Semi-secure crisis residential centers and their employees, acting reasonably and in good faith, are immune from civil or criminal liability in housing a child as a temporary out-of-home placement.

Study of HOPE Centers:

The WSIPP must submit a report to the Legislature and the Governor by December 1, 2002, on the study of the outcomes for youth placed in HOPE centers and responsible living skills programs.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill provides that a risk and needs assessment for a child under a ChINS, ARY, or truancy petition may be conducted by juvenile court staff, a community agency

identified by the court, or the DSHS if the DSHS has sufficient resources and agrees to perform the assessment.

A time period is included to require courts to hold a review hearing within 14 days of a truancy contempt finding and, pursuant to the results of a risk and needs assessment, authorization is provided to the courts to order any type of condition it deems appropriate.

The sections addressing contempt proceedings for children who violate ChINS, ARY, and truancy conditions of supervision are removed from the bill.

Immunity is provided for semi-secure crises residential centers and their employees acting reasonably and in good faith.

The deadline for the submission of the WSIPP report on the effectiveness of HOPE centers and the responsible living skills programs is extended until December 1, 2002.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available on Engrossed Substitute Senate version.

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

Testimony For: (In support) The flexibility in converting the ChINS, ARY, and truancy petitions is to reduce the barriers to access to services available under all three programs. Authorizing courts to hold review hearings at any time gives them the flexibility to adequately address the spectrum of needs that exist. Additional risk and needs assessments will be helpful to find the appropriate conditions of supervision.

(In support with concerns) The criminal contempt sanctions included in the bill are of great concern. The detention sanction is intended to act as a stick to coerce the juveniles to comply with the court's conditions. Detention for 21 days is no longer remedial, but punitive. If seven days in detention will not coerce a juvenile to comply, how will 21 days have that effect? Local governments will incur additional costs for the prosecutor and public defender to be involved in criminal contempt proceedings. Criminal contempt proceedings will further expose kids to the criminal arena, rather than placing them in a rehabilitative environment. Keeping juveniles in detention becomes punishment. Contempt proceedings should remain civil rather than criminal. Civil proceedings encourage families to work things out, while criminal proceedings require defense attorneys to advise their clients to remain silent and oppose all conditions. The DSHS supports the immunity provisions provided to HOPE centers. The DSHS is concerned that it will incur additional costs if it becomes responsible for conducting the additional

risk and needs assessments. It should be clear that schools should remain a party to the action when a truancy petition is converted to an ARY petition.

Testimony Against: None.

Testified: Paul Barry, Childrens Alliance; Judge Patricia Clark, King County Superior Court; Marianna Conner, Childrens Administration, Department of Social and Health Services; Linda Lillevik, Washington Defender Association; and Sharon Young, Childrens Administration, Department of Social and Health Services.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Juvenile Justice. Signed by 29 members: Representatives Sehlin, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice Chair; Alexander, Benson, Boldt, Buck, Clements, Cody, Cox, Dunshee, Fromhold, Grant, Kagi, Keiser, Kenney, Linville, Mastin, McIntire, Mulliken, Pearson, Pflug, Ruderman, D. Schmidt, Schual-Berke, Talcott and Tokuda.

Minority Report: Do not pass. Signed by 2 members: Representatives Kessler and Lambert.

Staff: Heather Flodstrom (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Juvenile Justice:

The amended bill makes a person immune from criminal and civil liability only for receiving or sheltering a HOPE child. The amended bill also makes all risk and needs assessments ordered by the court subject to available resources, regardless of whether they are performed by juvenile court staff, a community agency, or the Department of Social and Health Services. Additionally, a null and void clause is added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void if not funded in the budget.

Testimony For: The purpose of the bill was to streamline the petition process for parents and to address truancy. Judges want to order risk and needs assessments to

determine what is going on with the child, and if there are any services that can be given to the child to help keep them in school. The court wants to use an abbreviated version of the juvenile offenders risk and needs assessment for these children. The courts are trying to leave flexibility in assessment resources, and this will all be done within available resources. Some of the HOPE center providers felt that they were at risk and had liability due to taking children off the street that weren't necessarily placed by a state worker. This bill addresses the concerns about that liability and clarifies the provider's role.

Testimony Against: None.

Testified: Martha Harden, Superior Court Judges Association; and Lori Lippold, Children's Home Society.