# HOUSE BILL REPORT
# ESSB 5903

**As Passed House - Amended:**
April 27, 2003

**Title:** An act relating to juvenile offender sentences.

**Brief Description:** Providing additional sentencing alternatives for juvenile offenders.

**Sponsors:** By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, Stevens and Carlson).

**Brief History:**
**Committee Activity:**
Juvenile Justice & Family Law: 4/1/03, 4/3/03 [DPA];
Appropriations: 4/5/03, 4/7/03 [DPA(JJFL)].
**Floor Activity:**
Passed House - Amended: 4/24/03, 93-4.
Senate Refused to Concur. Asked House to Recede.
Passed House - Amended: 4/27/03, 98-0.

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

- Creates two additional sentencing alternatives for juvenile offenders and a pilot project for a third sentencing alternative.

## HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Delvin, Ranking Minority Member; Carrell, Eickmeyer, Hinkle and Upthegrove.

**Staff:** Sonja Hallum (786-7092).

## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Juvenile Justice & Family Law. Signed by 16 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Boldt, Cody, Conway, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McIntire,

Miloscia, Ruderman and Schual-Berke.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Buck, Clements, Cox, DeBolt, McDonald, Pflug, Sump and Talcott.

**Staff:** Bernard Dean (786-7130).

**Background:**

A juvenile offender who is adjudicated of an offense may be given a sentence by the court based on the statutorily available sentencing options. In Washington, the juvenile court may sentence a juvenile offender to a standard range sentence, a sentence outside the standard range, a deferred disposition, a Special Sex Offender Disposition Alternative sentence, or a Chemical Dependency Disposition Alternative sentence.

The majority of the sentences imposed by the juvenile court are standard range sentences. Standard range sentences are calculated based on a grid system using the offender's prior criminal history and the seriousness of the current offense. If the court finds that a standard range sentence is not appropriate in a specific case the court may impose a statutorily available alternative sentence. The court may impose a manifest injustice sentence outside the standard range if the court has sufficient cause. There may also be alternative sentences which are appropriate such as a Special Sex Offender Disposition Alternative or a Chemical Dependency Disposition Alternative sentence.

If the court imposes a period of confinement as a part of the sentence the juvenile offender may be sentenced to serve the time in a local detention facility if the sentence is of a shorter duration, generally 30 days or less. If the sentence involves a longer period of commitment, the juvenile offender is usually transferred to a Juvenile Rehabilitation Administration (JRA) facility. The local detention facilities and the JRA facilities may offer different treatment programs.

**Summary of Amended Bill:**

The bill prohibits the closure of a JRA institution without specific authorization in an act of the Legislature. If an institution is closed it may not be used to incarcerate adult offenders.

Two additional sentencing alternatives are created: a Suspended Disposition Alternative and a Mental Health Disposition Alternative. A third sentencing alternative, the Community
Commitment Disposition Alternative, is authorized as a pilot program.

Suspended Disposition Alternative:

If the offender is subject to a standard range disposition involving confinement by the JRA, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirements. The treatment programs provided to the offender must be research-based best practice programs as identified by the Washington State Institute for Public Policy or the Joint Legislative Audit and Review Committee.

If the offender fails to comply with the suspended disposition conditions, the court may order sanctions or revoke the suspended disposition and order the imposition of the original sentence.

An offender is ineligible for the Suspended Disposition Alternative if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree; or

(iii) Assault in the second degree, extortion in the first degree, kidnapping in the second degree, robbery in the second degree, residential burglary, burglary in the second degree, drive-by shooting, vehicular homicide, hit-and-run death, intimidating a witness, violation of the Uniform Controlled Substances Act (RCW 69.50.401(a)(1) (i) or (ii)), or manslaughter II, when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Ordered to serve a disposition for a firearm violation; or

(d) Adjudicated of a sex offense.

Mental Health Disposition Alternative:

If the offender is subject to a standard range disposition of 15 to 65 weeks, the court may impose the standard range or impose the standard range and suspend the disposition on condition that the offender comply with the terms of the Mental Health Disposition Alternative. The offender is required to undergo treatment as a condition of the sentence. The treatment to be provided to the offender shall be chosen from among programs which have been successful in addressing mental health needs of juveniles and successful in mental health treatment of juveniles and identified as research-based best practice programs.

The court may impose the Mental Health Disposition Alternative if the court finds the

following:

(a) The offender has a current diagnosis of an axis I psychiatric disorder, excluding youth that are diagnosed as solely having a conduct disorder, oppositional defiant disorder, substance abuse disorder, paraphilia, or pedophilia;

(b) An appropriate treatment option is available in the community;

(c) The plan for the offender identifies and addresses requirements for successful participation and completion of the treatment intervention program; and

(d) The offender, the offender's family, and the community will benefit from the use of the Mental Health Disposition Alternative.

The court may order a mental health or chemical dependency evaluation to determine if the offender has a designated mental disorder or chemical dependency disorder. The evaluator is to determine if the offender is eligible for research-based treatment. The court may also order a second mental health or chemical dependency evaluation.

If the court determines the Mental Health Disposition Alternative is appropriate, the court shall impose the standard range disposition of up to 65 weeks, suspend execution of the disposition, place the offender on community supervision for up to one year, and impose one or more other local sanctions.

If the offender fails to comply with the terms of the disposition alternative the court may impose sanctions or may revoke the suspended disposition and order the imposition of the original sentence.

Community Commitment Disposition Alternative:

A pilot program is established to implement the Community Commitment Disposition Alternative. The pilot project is limited to 5 beds.

Under the Community Commitment Disposition Alternative, if the offender is subject to a standard range disposition of 15 to 36 weeks, and is ineligible for the other sentencing alternatives, the court may impose the Community Commitment Disposition Alternative. This alternative allows the court to retain jurisdiction over the offender rather than committing the offender to a JRA institution.

The court may order the offender to be confined in the county detention facility for a standard range sentence of up to thirty days and impose community supervision for up to one year.

The court may impose the Community Commitment Disposition Alternative if the court finds the following:

(a) Placement in a local detention facility in close proximity to the youth's family or local support systems will facilitate a smoother reintegration to the youth's family and community;
(b) Placement in the local detention facility will allow the youth to benefit from locally provided family intervention programs and other research-based treatment programs, school, employment, and drug and alcohol or mental health counseling; or
(c) Confinement in a facility operated by the department would result in a negative disruption to local services, school, or employment or impede or delay developing those services and support systems in the community.

If the offender violates the conditions of the community commitment program the court may impose sanctions or order the offender to serve all or a portion of the remaining confinement time in secure detention.

Other Provisions:

The Washington State Institute for Public Policy shall develop adherence and outcome standards for measuring effectiveness of treatment programs referred to in the act.

A task force is created for the purpose of examining the coordination of information, education services, and matters of public safety when juvenile offenders are placed into public schools following their conviction.

The bill contains a null and void clause stating that if specific funding for the act is not provided by June 30, 2003 in the Omnibus Appropriations Act, the act is null and void.

**Appropriation:** None.

**Fiscal Note:** Requested on April 4, 2003.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed. However, the act is null and void if it is not funded in the budget.

**Testimony For:** (Juvenile Justice & Family Law) (Original bill) The bill saves money and improves services to kids. There is no current plan to downsize any institutions. These alternatives are better for kids. Some kids are better served by keeping them near their families. The JRA does a good job with kids, but some kids best benefit from programs in the community. The kids will eventually return to their communities and it makes sense to reintegrate them by having them near the community where they will be living. The public schools already have kids with serious histories in their schools. Local detention facilities today are not the same as they once were. Today they offer on-site programs for education, chemical dependency, FFT, MST, victim awareness, and many other programs. Kids who are dangerous still go to the JRA. The bill excludes

violent offenders. The Senate budget has built-in funding for this.

**Testimony For:** (Appropriations) (In support) Juvenile court administrators support this bill because it saves money and is better for children and families. The juvenile court administrators have the expertise to implement this option in the community. Originally, this proposal was developed to save money in place of reducing Becca truancy funding as was proposed by the Governor. This is not an assault on the Juvenile Rehabilitation Administration (JRA). It keeps kids closer to their families, service providers, and their community. Youth that are not successful in the community will be sent back to the JRA. This bill is funded in the proposed 2003-05 Senate budget.

(With concerns) However, we should be careful about assuming savings until they are actually realized. The JRA cannot continue to sustain a degradation of its services. Nonetheless, the JRA supports the philosophical concept of keeping kids in the least restrictive placement possible and providing them with research-based interventions.

**Testimony Against:** (Juvenile Justice & Family Law) Original bill) This bill is very short-sighted. It creates an unfunded mandate to counties. What happens down the road if we close Green Hill School and we don't have enough facilities? One reason to maintain the separate juvenile facilities is because it takes into account the different issues of kids because the different facilities serve different kids. There are concerns with confining juvenile offenders in local facilities for longer periods of time as compared to juvenile institutions which have proven programs. Local facilities are not set up to deal with long-term commitments. They cannot offer the same level of treatment. The institutions are set up to provide research-based programs. Option B does not have specifications requiring research-based interventions. The bill may jeopardize programs we currently have in place like the boot camp. Students are short-changed under this bill. The bill also raises concerns about community safety. If an offender is sent to the local school under one of the alternatives, the school is expected to deal with the student within available resources and this pulls money away from educational funding.

**Testimony Against:** (Appropriations) This population is already being served in the JRA. Approximately 40 percent of the JRA population is sent there through a manifest injustice sentence. They are going to the JRA because state facilities already have the resources to treat these kids. We are not going to get better results if they are treated locally.

**Testified:** (Juvenile Justice & Family Law) (In support on original bill) Senator Hargrove, prime sponsor; Daniel Erker, Ned Delmore and Bruce Knutson, Washington Association of Juvenile Court Administrators; Deborah Fleck and Paula Casey, Superior Court Judges Association; and Jim Potts, Martin Hall Juvenile Consortium.

(With concerns on original bill) Craig Dwight, Yakima School District; Greg Williamson, Office of the Superintendent of Public Instruction; Cheryl Stephanie, Juvenile

Rehabilitation Administration; Bill Lotto, Lewis County Economic Development Council; David Winger, King County Department of Adult and Juvenile Detention; Shane Wherry, Maple Lane School; Joe Pope, Association of Washington School Principals; and Jean Wessman, Washington State Association of Counties.

(In opposition on original bill) Representative Boldt; Larry Fehr, Second Chance; Dennis Nugent, Peninsula School District; Heather Highmiller, Chehalis Education Association; Michaela Hoyt, Issaquah School District; Robin Andrea, Naselle School District; Yukiko Yoshida; John Smith; Kevin Prestegard; Paul Nelson, St. Martin's College; Sherry Appleton, Washington Defender Association and Tom McBride, Washington Association of Prosecuting Attorneys.

**Testified:** (Appropriations) (In support) Daniel Erker, Phil Jans, and Bruce Knutson, Washington Juvenile Court Administrators Association.

(With concerns) Cheryl Stephani, Department of Social and Health Services Juvenile Rehabilitation Administration.

(In opposition) Tom McBride, Washington Association of Prosecuting Attorneys.