

SENATE BILL REPORT

SB 5746

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2009

Title: An act relating to sentencing provisions for juveniles adjudicated of certain crimes.

Brief Description: Modifying sentencing provisions for juveniles adjudicated of certain crimes.

Sponsors: Senator Hargrove.

Brief History:

Committee Activity: Human Services & Corrections: 2/17/09, 2/23/09 [DPS, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5746 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell and McAuliffe.

Minority Report: That it be referred without recommendation.

Signed by Senator Kauffman.

Staff: Jennifer Strus (786-7316)

Background: In juvenile offender matters, prior felony adjudications count as one point each on the juvenile disposition grid. Each prior violation, misdemeanor, or gross misdemeanor adjudication counts as one-fourth point. A violation may include any act or omission, which if committed by an adult, that must be proved beyond a reasonable doubt, and is punishable by sanctions that do not include incarceration.

Taking a Motor Vehicle Without Permission – First Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range of no less than five days of home detention, 45 hours of community restitution, and a \$200 fine.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range of no less than ten days of detention, 90 hours of community restitution, and a \$400 fine.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- prior criminal history score of 2+ points – standard sentence range of no less than 15-36 weeks of confinement, seven days of home detention, four months of supervision, 90 hours of community restitution, and a \$400 fine.

Theft of Motor Vehicle or Possession of Stolen Vehicle. If a juvenile is adjudicated of one of the above offenses, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range that includes either: no less than five days of home detention and 45 hours of community restitution or no home detention and 90 hours of community restitution.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range that includes no less than ten days of detention, 90 hours of community restitution, and a \$400 fine.
- prior criminal history score of 2+ points – standard sentence range that includes no less than 15 to 36 weeks of confinement, seven days of home detention, four months of supervision, 90 hours of community restitution, and a \$400 fine.

Taking Motor Vehicle without Permission – Second Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range includes either no less than one day of home detention, one month of community supervision, and 15 hours of community restitution or no home detention, one month of supervision, and 30 hours of community restitution.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range includes no less than one day of detention, two days of home detention, two months of supervision, 30 hours of community restitution, and a \$150 fine.
- prior criminal history score of 2+ points – standard sentence range of no less than three days of detention, seven days of home detention, three months of supervision, 45 hours of community restitution, and a \$150 fine.

Summary of Bill (Recommended Substitute): The standard sentence ranges are changed for the following offenses.

Taking a Motor Vehicle Without Permission - First Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range of three months of community supervision, 45 hours of community restitution, and a \$200 fine. The juvenile may be subject to no less than five days of electronic monitoring where available.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range of no less than ten days of detention, six months of community supervision, 90 hours of community restitution, and a \$400 fine.
- prior criminal history score of 2+ points – standard sentence range of no less than 15-36 weeks of commitment to Juvenile Rehabilitation Administration (JRA), four months of parole supervision, 90 hours of community restitution, and a \$400 fine. The juvenile may be subject to no less than seven days of electronic monitoring where available.

Theft of Motor Vehicle or Possession of Stolen Vehicle. If a juvenile is adjudicated of one of the above offenses, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range that includes no less than three months of community supervision, 45 hours of community restitution, a \$200 fine and either 90 hours of community restitution or no less than five days of electronic monitoring where available.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range that includes no less than six months of community supervision, no less than ten days of detention, 90 hours of community restitution, and a \$400 fine.
- prior criminal history score of 2+ points – no less than 15 to 36 weeks of commitment to JRA, four months of parole supervision, 90 hours of community restitution, and a \$400 fine. The juvenile may be subject to no less than seven days of electronic monitoring where available.

Taking Motor Vehicle without Permission - Second Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range includes three months of community supervision and 15 hours of community restitution. The juvenile may be subject to no less than one day of electronic monitoring where available.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range includes no less than one day of detention, three months of supervision, 30 hours of community restitution, and a \$150 fine. The juvenile may be subject to no less than two days of electronic monitoring where available.
- prior criminal history score of 2+ points – standard sentence range of no less than three days of detention, six months of community supervision, 45 hours of community restitution, and a \$150 fine. The juvenile may be subject to no less than seven days of electronic monitoring where available.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Adds in the ability of the court to use electronic monitoring for various periods depending upon the level of the crime, where available.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: The largest part of this bill is clarification of some of the changes made during the 2007 session in the Omnibus Auto Theft bill. After that bill passed, and juvenile court administrators and courts implemented the changes affecting juvenile offenders, they discovered that the implementation of the bill was not uniform across the state. For example, the portion of the sentence that would require that a juvenile be committed to JRA requires that the juvenile be supervised upon his or her

release from JRA. The bill clarifies that the supervision be parole supervision and not community supervision because it is the parole officers that should be doing the supervision not community probation folks. The portion dealing with the use of home detention was interpreted differently across the state. Generally, home detention is not used with juveniles and is understood to mean electronic monitoring or house arrest when applied to adults. Only about half the counties use electronic home monitoring because of a variety of reasons; therefore, in those counties that do not, juveniles were sentenced to incarceration in the juvenile detention facilities and in other counties, juveniles were electronically monitored. The result of this implementation was that some juveniles were treated more strictly than others for the same offense. This bill would assist in making sure the implementation is more uniform across the state.

CON: The juvenile justice system is to be concerned with rehabilitation, and mandatory minimum sentences in the Juvenile Code go against that philosophy. The portions of the bill requiring home detention should remain in the bill and the portions about electronic home monitoring can be removed.

Persons Testifying: PRO: Pete Peterson, Washington Association of Juvenile Court Administrators.

CON: Don Pierce, Washington Association of Sheriffs and Police Chiefs; Michael Kahrs, Washington Association of Criminal Defense Lawyers.