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**Early Learning & Human Services  
Committee**

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**SSB 6240**

**Brief Description:** Modifying provisions relating to orders of disposition for juveniles.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Kline, Carrell and Harper).

**Brief Summary of Substitute Bill**

- Permits a juvenile to request a deferred disposition less than two weeks before trial if the juvenile demonstrates good cause for the request.
- Permits the court to vacate a conviction entered pursuant to a deferred disposition if the juvenile has not paid restitution in full but has made good faith efforts to comply with restitution requirements.
- Provides that a juvenile adjudication is the same as a conviction for offenses where the penalty includes the withholding of driving privileges.
- Provides that a dismissal after a juvenile has completed a deferred disposition is still considered a conviction under statutory provisions which prohibit a convicted person from possessing a firearm.
- Requires the juvenile court to notify a juvenile's school when he or she is found guilty of certain offenses in a deferred disposition proceeding.
- Clarifies that dispositions for two or more offenses in a single disposition order are to be imposed consecutively, and that community supervision imposed in multiple disposition orders are to be imposed concurrently while multiple disposition orders of detention are imposed consecutively.

**Hearing Date:** 2/20/12

**Staff:** Linda Merelle (786-7092).

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*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.*

## **Background:**

### Deferred Disposition.

A deferred disposition in juvenile court is akin to a deferred prosecution in adult court. The juvenile offender is found guilty at the time that the court agrees to allow a deferred disposition. A deferred disposition allows a juvenile to complete certain conditions set out by the court and probation, including any restitution payment, in exchange for having the charges dismissed. A disposition is the juvenile court equivalent of sentencing in adult court. The juvenile court may continue a case for disposition if a motion is made at least 14 days prior to commencement of the trial.

A juvenile is eligible for a deferred disposition unless he or she:

- is charged with a sex or violent offense;
- has a criminal history which includes any felony; or
- has two or more prior adjudications.

If a court grants a deferred disposition, the juvenile is required to:

- stipulate to the admissibility of the facts contained in the written police report;
- acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition (i.e., sentencing) if the juvenile fails to comply with terms of supervision; and
- waive the right to a speedy disposition and to call and confront witnesses.

After the court enters a finding or plea of guilty, the court defers entry of an order of disposition. The juvenile offender is placed on community supervision, and the court may impose any conditions that it deems appropriate. Payment of restitution must be a condition of supervision. The juvenile normally has one year to complete the conditions but may have up to two years. Prior to the expiration of the period of supervision, the prosecutor or the juvenile court community supervision counselor may file a written motion to revoke the deferred disposition. If the court determines, after a hearing, that the juvenile has failed to complete the conditions, the court must enter an order of disposition.

If the court finds that the juvenile offender has successfully complied with the conditions of his or her supervision, including payment of restitution, the conviction is vacated and the court dismisses the case with prejudice. However, if the juvenile has a conviction for Animal Cruelty in the first degree, his or her conviction is not vacated.

### Sealing of Deferred Dispositions.

A juvenile's records of a deferred disposition must be sealed within 30 days after the juvenile's 18th birthday if:

- the conditions of the deferred disposition have been completed;
- the deferred disposition has been vacated and the case dismissed with prejudice; and
- the juvenile does not have any pending charges.

If the juvenile is already 18 years old at the time that the deferred disposition is vacated, he or she may request that the court seal his or her records, and that request must be granted. Records

sealed under this provision have the same legal status as records sealed under other laws governing records related to juvenile offenses.

### **Summary of Bill:**

#### Motion for Deferred Disposition.

If a motion for a deferred disposition is made with less than 14 days but prior to commencement of the trial, the court may waive the 14-day requirement for good cause. A juvenile who agrees to a deferral of disposition must acknowledge the direct consequences of being found guilty and the direct consequences that will happen if an order of disposition is entered.

#### Restitution.

At the conclusion of the deferral period, if restitution has not been paid in full, the court may still vacate the conviction if the court is satisfied the respondent has made a good faith effort to pay. If the court vacates the juvenile's conviction, and restitution is still owed, the court must enter an order establishing the amount of restitution due and the terms and conditions of payment, which may include a payment plan extending up to 10 years. The respondent may remain under the court's jurisdiction for a maximum of 10 years after the respondent turns 18. Prior to the expiration of the initial 10-year period, the juvenile court may extend the judgment for restitution an additional 10 years.

#### Juvenile Adjudications.

Statutory changes are made regarding whether a juvenile adjudication or deferral will be considered a conviction, as follows:

- A juvenile adjudication is considered to be a conviction for purposes of addressing offenses whose penalties include the withholding of driving privileges.
- A dismissal after a deferred disposition for a juvenile is considered to be a conviction under statutory provisions that prohibit a convicted person from possessing a firearm.

#### Notice to Schools.

The juvenile court must notify a juvenile's school when a juvenile is found guilty of one of the following offense in a deferred disposition proceeding: a violent offense; a sex offense; inhaling toxic fumes; a violation of the controlled substances act; a liquor violation; an offense involving a firearm; assault; kidnapping; harassment; or arson.

#### Consecutive Dispositions.

The dispositions for two or more offenses in a single disposition order are consecutive. When the dispositions for two or more offenses are contained in separate disposition orders, multiple orders of detention imposed are consecutive, though not to exceed certain limits, but the terms of community supervision are concurrent.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.