

SENATE BILL REPORT

HB 2535

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2012

Title: An act relating to creating a juvenile gang court.

Brief Description: Creating a juvenile gang court.

Sponsors: Representatives Ladenburg, Johnson, Moscoso, Walsh, Ross, Klippert, Goodman, Nealey, Fitzgibbon, Appleton, Pollet, Green, Billig, Roberts, Kirby, Probst, Jinkins, Kagi, Lytton, Dickerson, Darneille, Santos and Kenney.

Brief History: Passed House: 2/09/12, 92-4.

Committee Activity: Human Services & Corrections: 2/17/12, 2/23/12 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

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

Staff: Jennifer Strus (786-7316)

Background: Special Courts. Many counties in Washington operate problem solving courts for specific offenders. At least three of these courts are authorized in statute: mental health courts, drug courts, and courts for offenders charged with driving under the influence. These dedicated courts have special calendars or dockets designed to reduce recidivism and provide intense, judicially supervised treatment. If an offender completes the requirements of a particular court, the underlying criminal charge is usually dismissed. In Washington, most dedicated courts handle only adult offender cases. Some counties, however, operate a juvenile drug court.

Gang Courts. Some state and federal courts have initiated gang courts for adult offenders. These courts are often developed based upon a drug court model. Instead of providing substance abuse treatment, the courts use a team approach whose goal is to assist offenders who want to leave a gang lifestyle.

Yakima County is the only county in Washington that has developed a gang court specifically for juvenile offenders. In order to participate, the juvenile charged with an offense must be

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involved in gang-related activities. Under Yakima's model, the youth is supervised by a gang court team that may include a prosecutor, defense counsel, probation officer, law enforcement, treatment providers, educators, and other interested members in the community. Upon admission to gang court, the juvenile either pleads guilty or is found guilty by the court based upon the facts in the police report. Sentencing is deferred for one year. Even if the juvenile offender completes all of the requirements of the gang court, the case is not dismissed. The court, however, may have a basis to impose a sentence more lenient than the standard sentence range.

Summary of Bill (Recommended Amendments): Counties are authorized to establish and operate juvenile gang courts, which are courts that have special calendars or dockets designed to achieve a reduction in gang-related offenses among juvenile offenders. The gang courts must provide juveniles with integrated evidence-based services that are proven to reduce recidivism and gang involvement.

Any county that establishes a juvenile gang court must establish minimum requirements for participation. A particular county, however, may adopt more stringent admission requirements. Under this act, a gang is defined as a group which consists of three or more persons; has identifiable leadership; and on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

Admission. The minimum requirements for admission to gang court are:

1. the juvenile offender participates in gang activity, is repeatedly in the company of known gang members, or openly admits to having been admitted to a gang;
2. the juvenile offender has not previously been convicted of a serious violent offense or a sex offense; and
3. the juvenile offender is not currently charged with:
 - a. a class A felony;
 - b. a sex offense;
 - c. an offense during which the offender intentionally discharged or threatened to discharge a firearm;
 - d. the juvenile is not subject to the original jurisdiction of the adult superior court; or
 - e. an offense that constitutes assault of a child in the second degree.

Requirements for Completion. Once a juvenile offender is admitted into gang court, the offender must stipulate to the admissibility of the facts in the police report and agree that the facts are sufficient to find him or her guilty of the charged offense. The juvenile must waive the right to a speedy trial and the right to confront witnesses. Upon review of the police report, the court, if it determines that there is sufficient evidence to do so, enters a finding of guilt. The juvenile disposition, or sentencing, is deferred. The juvenile can be admitted to the gang court only once, even if a prior admission was successfully completed.

Once the juvenile is admitted, an individualized plan is developed for the juvenile, which may include mental health, substance abuse treatment, or other recommended services. The plan must contain goals for the juvenile and the juvenile's support team. The support team may be comprised of treatment providers, a probation officer, teachers, defense counsel, the prosecuting attorney, law enforcement, guardians or family members, and other participants

deemed necessary by the court. If the juvenile completes the requirements of the gang court within a 12-month period, the charges are dismissed.

Data Collection and Reports. Counties that create juvenile gang courts must collect data (1) regarding the criteria upon which a juvenile was admitted to gang court, (2) whether the juvenile successfully completed gang court, and (3) whether a juvenile court participant subsequently charged with any offenses.

By December 1, 2013, the Administrative Office of the Courts must study the data collected by the counties and make a preliminary report to the Legislature regarding the recidivism outcomes for the gang court participants. A final report is due by December 1, 2015.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): Provides that even if a juvenile has previously successfully completed the requirements of the gang court, that juvenile can only be admitted once. Requires that the gang court requirements be completed within a 12-month period. Adds to the reasons barring the juvenile's participation in the gang court that the juvenile not be currently charged with an offense that constitutes assault of a child in the second degree.

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 as Heard in Committee: PRO: Although WAPA is not in favor of every type of therapeutic court, they are in favor of this particular one. Because gangs have a huge impact on community safety, this bill is important. For the court to be successful, there needs to be fidelity to the court model. The other court models include the prosecutor as part of the team that decides what juveniles can be admitted to the court. This bill would provide that if a juvenile successfully completes the program there would be no conviction on his or her record. This is an incentive for the juvenile to successfully complete the program. Yakima County started its gang court in June of 2011. It had trouble with gangs, and a number of committed people in the community got together to start the gang court. They use evidence-based and promising programs with the juveniles who are participants in the gang court. They have had nine juveniles in the program. None of them were involved in school at the time they entered the program. Although one of the juveniles has since dropped out, the other eight are involved in school full-time. They do a risk assessment as soon as the juvenile enters the program and continuously monitor the juveniles in the program. They have found out that the risk factors for these juveniles has dropped substantially and the protective factors have risen. The juveniles in the gang court program are those that would have been sent to a Juvenile Rehabilitation Administration institution, so this program is actually saving the state money. This program offers juveniles the opportunity to take a different path and have a better future. This bill will allow juveniles to realize the

consequences of their actions and opt for a different course. Gang courts provide a real opportunity for juveniles to turn their lives around.

Persons Testifying: PRO: Representative Ladenburg, prime sponsor; Russ Hauge, Kitsap County Prosecutor; Brianna Taylor, Yakima County; Robin Berendt, Yakima County Juvenile Court Administrator; Alex Morales, David Lyjano, Leno Rose-Avila, Latino Equity Fund.