

SENATE BILL REPORT

SB 5580

As Reported by Senate Committee On:
Human Services & Corrections, February 17, 2011

Title: An act relating to orders of disposition for juveniles.

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

Sponsors: Senators Regala and Kline.

Brief History:

Committee Activity: Human Services & Corrections: 2/11/11, 2/17/11 [DPS, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5580 be substituted therefor, and the substitute bill do pass.

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

Minority Report: That it be referred without recommendation.

Signed by Senator Baxter.

Staff: Shani Bauer (786-7468)

Background: Deferred disposition is a disposition alternative for some juveniles offenders. In a deferred disposition, a guilty plea or finding of guilt is entered, the case is continued generally for up to one year, and the juvenile is placed on community supervision. If the juvenile complies with the conditions of supervision and pays full restitution, the guilty plea is vacated and the case is dismissed with prejudice. If the juvenile fails to comply with the conditions of the community supervision, the court must enter the original disposition order.

A juvenile is ineligible for deferred disposition if the current charge is for a sex or violent offense; the juvenile has a criminal history that includes any felony; the juvenile has a prior deferred disposition or deferred adjudication; or the juvenile has two or more adjudications.

The juvenile court may continue a case for disposition if a motion is made at least 14 days prior to commencement of the trial.

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.

Summary of Bill (Recommended Substitute): 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.

The court may vacate a conviction at the end of a deferral period, even if restitution has not been paid in full, if the juvenile has made a good faith effort to pay. The court must enter an order establishing the balance due and entering a payment plan which may extend up to ten years. The respondent must remain under the court's jurisdiction for a maximum term of ten years. Prior to expiration of the ten year period, the juvenile court may extend the judgment of restitution for an additional ten years. The court may relieve the respondent of the requirement to pay restitution in whole or in part to any insurance provider if the court is satisfied that the respondent does not have the ability to pay. Restitution must be paid in full before the records of the juvenile's deferred disposition may be sealed.

Where disposition in separate disposition orders is imposed on a youth, the periods of community supervision in the separate orders must run concurrently and the periods of detentions must run consecutively.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): The court's authority to order a deferred disposition after the commencement of trial is removed. The court may relieve a juvenile of the requirement to pay restitution to any insurance provider if the court is satisfied the person does not have the ability to pay and could not reasonably acquire the means to pay the restitution over a ten-year period. Full restitution must be paid in order for the juvenile's records to be sealed.

Appropriation: None.

Fiscal Note: Not requested.

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: I became concerned with this issue because of an appellate court decision that requires dismissal of the conviction if the juvenile has made a good faith effort to pay. There is currently nothing in the statute that allows the court to keep restitution going. This bill is designed to remedy that problem.

CON: We oppose two areas of this bill. First, allowing the court to enter a deferred disposition after commencement of the trial. This has been used by the court to find the offender guilty of a lesser offense when the facts actually support another verdict. A deferred disposition is a good thing, but should be limited to pre-trial. We also do not agree with the victim restitution provisions. To allow the court to dismiss restitution devalues the victim. The deferred disposition is a give and take. It puts the juvenile back into the position where they were prior to committing the act, but does not necessarily restore the victim. This

situation is made worse if the court can dismiss the restitution. A compromise solution would be to allow the court to extend restitution out until the juvenile turns 21.

Persons Testifying: PRO: Judge Helen Halpert, Superior Court Judges Association.

CON: Todd Dowell, Kelly Pelland, Wyman Yip, Washington Association of Prosecuting Attorneys.