

SENATE BILL REPORT

SSB 6240

As Amended by House, March 2, 2012

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

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 History:

Committee Activity: Human Services & Corrections: 1/26/12, 2/02/12 [DPS].

Passed Senate: 2/13/12, 48-0.

Passed House: 3/02/12, 97-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6240 be substituted therefor, and the substitute bill do pass.

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

Staff: Shani Bauer (786-7468)

Background: Deferred disposition is a disposition alternative for some juvenile 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 Substitute Bill: 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.

At the conclusion of the deferral period, if restitution has not been paid in full, the court may proceed to vacate the conviction if the court is satisfied the respondent made a good faith effort to pay. In this instance, the court must enter an order establishing the amount of restitution still owing and the terms and conditions of payment, which may include a payment plan extending up to ten years. The respondent remains under the court's jurisdiction for a maximum of ten years after the respondent turns 18. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve a respondent of the requirement to pay restitution to any insurance provider if the court is satisfied the respondent does not have the means to pay and could not reasonably acquire the means to pay over a ten-year period.

Records of deferred disposition cases that have been vacated must be sealed no later than 30 days after the juvenile turns 18 if no further charges are pending and restitution has been paid in full.

Statutory changes are made to clarify when a juvenile adjudication or deferral will be considered a conviction:

- A juvenile adjudication is included in the definition of conviction for purposes of addressing convictions for offenses requiring withholding of driving privileges.
- A dismissal after a deferred disposition for a juvenile is included in the definition of conviction for purposes of prohibiting a convicted person from possessing a firearm.
- The juvenile court must notify a juvenile's school when a juvenile is found guilty in a deferred disposition proceeding when the juvenile committed certain offenses.

A disposition in a single disposition order for two or more offenses runs consecutively. When disposition for two or more offenses is contained in separate disposition orders, multiple orders of detention must run consecutively, but the terms of community supervision will run concurrently.

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: PRO: Currently, if a child with a deferred disposition is unable to pay restitution, the court is faced with a dilemma: the court can either dismiss the matter, thereby also dismissing any restitution still owed, or enter a conviction for the juvenile in order to continue the restitution. To make matters more difficult, recent case law states that if the juvenile has made a good faith effort to pay, the court must dismiss the

matter. This bill gives the court a much better option, to enter the dismissal for the juvenile, but continue the restitution to the victim as a civil judgment.

Persons Testifying: PRO: Judge Helen Halpert, Superior Court Judges' Assn.; Tom McBride, WA Assn. of Prosecuting Attorneys.

House Amendment(s): If a court has vacated a conviction pursuant to a deferred disposition and restitution has been paid in full, the court must schedule an administrative sealing hearing no later than 30 days after the respondent turns 18, at which time the court must enter a written order sealing the case. The respondent's presence is not required. The court must grant any motion to seal records of a deferred disposition which has been vacated prior to the effective date of this act if the person is 18 years of age or older at the time of the motion and all restitution has been paid in full. All statutory changes clarifying when a juvenile adjudication or deferral will be considered a conviction are removed. The juvenile standard-range disposition grid is rearranged for ease of use and visual clarity. The grid is also revised to reflect the Legislature's elimination of two levels of seriousness for the offense of malicious mischief in the third degree.