

HOUSE BILL REPORT

HB 1724

As Passed House:

March 6, 2013

Title: An act relating to statements made by juveniles during assessments or screenings for mental health or chemical dependency treatment.

Brief Description: Concerning statements made by juveniles during assessments or screenings for mental health or chemical dependency treatment.

Sponsors: Representatives Roberts, Kagi, Pettigrew, Goodman, Green, Reykdal, Cody, Jinkins, Appleton, Freeman, Moeller, Ryu, Pollet, Moscoso and Bergquist.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/19/13, 2/21/13 [DP].

Floor Activity:

Passed House: 3/6/13, 81-17.

Brief Summary of Bill

- Provides that statements, admissions, or confessions made by a juvenile in the course of a mental health or chemical dependency screening or assessment are inadmissible as evidence of the juvenile's guilt in a juvenile offense matter or an adult criminal proceeding.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass. Signed by 9 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Farrell, Goodman, MacEwen, Roberts, Sawyer and Zeiger.

Minority Report: Do not pass. Signed by 2 members: Representatives Scott, Assistant Ranking Minority Member; Overstreet.

Staff: Linda Merelle (786-7092).

Background:

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.

A juvenile has the same privilege against self-incrimination as an adult. This privilege prohibits the use of a juvenile offender's statements unless the privilege has been knowingly and intelligently waived following a warning. Courts have held that the privilege against self-incrimination applies to statements made by a juvenile to court-appointed mental health professionals when a juvenile is the subject of a decline hearing and other stages of a juvenile offender's case. Even though an offender has the privilege against self-incrimination, such statements may be used to impeach the credibility of the juvenile or to assess the level of risk of a juvenile at a disposition hearing.

Summary of Bill:

A juvenile's statements, admissions, or confessions in the course of a mental health or chemical dependency screening or assessment are not admissible into evidence against the juvenile on the issue of guilt in any juvenile offender matter or adult criminal proceeding. The prohibition applies even where the court has not ordered the assessment or the screening.

Statements, admissions, or confessions are admissible if the juvenile has placed his or her mental health at issue and for any other purpose or proceeding allowed by law, such as impeachment. The prohibition does not apply to statements, admissions, or confessions made to law enforcement, and the prohibition does not allow a juvenile to argue that evidence lawfully obtained based upon information in the statements, admissions, or confessions should be suppressed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill provides assurance that youth are involved in an assessment or screening for their mental health or chemical dependency problems, and it will be confidential and not cause them to have more problems than they already have. On any given day 60 to 70 percent of the youth that appear in detention or in the juvenile justice system have a significant behavioral health or mental health disorder. Without adequate screening, a youth could be at risk for harm or various types of emotional problems that significantly impact their ability to function. Screening and assessment have accurately identified and probably prevented harm to many children because youth who have self-harming behavior or have experienced trauma are identified. Many youth have to be convinced to take the screening because they are concerned about the consequences. This bill will allow protections for the youth to allow adequate information to provide for an adequate intervention. The adequacy of screening is a critical issue. A large majority of youth touched by the juvenile justice system have substance abuse or mental health issues. We have learned of the importance of developmentally appropriate treatment for these youth that would reduce the likelihood of further involvement in the juvenile justice system. The determination of appropriate treatment requires a screening and assessment. This depends in

part on information obtained by the juvenile; unless the youth knows the information disclosed will not be used in the determination of guilt, it may be based upon faulty assumptions, if it is administered at all. Defense attorneys are reluctant to allow a client to provide information because of the potential consequences. If the youth discloses information to other individuals is not affected by the bill. The language in this bill is limited to the use of juvenile statements in the guilt phase. It can still be available for setting conditions of supervision. Mandatory reporting requirements are not affected. Without full disclosure of what juveniles' needs are, juveniles will not be able to receive the services that are available to them.

(Opposed) None.

Persons Testifying: Representative Roberts, prime sponsor; Eric Trupin, University of Washington; Laura Inveen, Superior Court Judges Association; and Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.