

# FINAL BILL REPORT

## ESHB 2164

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Synopsis as Enacted

**Brief Description:** Requiring evidence-based and research-based interventions for juvenile firearm offenders in certain circumstances.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Orwall, Appleton, Carlyle and Ryu).

**House Committee on Judiciary**  
**Senate Committee on Human Services & Corrections**

### **Background:**

#### Unlawful Possession of a Firearm.

A person is guilty of Unlawful Possession of a Firearm in the first degree if the person owns, possesses, or has in his or her control any firearm after having previously been convicted of a serious offense. A "serious offense" includes, among other things, any crime of violence, various class B felonies, any felony with a deadly weapon verdict, and certain vehicular related crimes when committed while under the influence of alcohol or drugs or while driving recklessly. A person is guilty of Unlawful Possession of a Firearm in the second degree if the person owns, possesses, or has in his or her control any firearm and the person:

- has previously been convicted of any felony (other than a serious offense);
- has previously been convicted of certain gross misdemeanors committed by one family or household member against another;
- has previously been involuntarily committed for mental health treatment;
- is under the age of 18 (with some exceptions); or
- is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

Under the Juvenile Justice Act, Unlawful Possession of a Firearm in the first degree carries a standard range disposition of local sanctions for the first or second offense. Local sanctions include one or more of the following: zero to 30 days of confinement; zero to 12 months of community supervision; zero to 150 hours of community restitution; or a \$0 to \$500 fine. If the juvenile has two or more prior adjudications, the juvenile is subject to confinement in a Juvenile Rehabilitation Administration (JRA) facility.

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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.*

Unlawful Possession of a Firearm in the second degree carries a standard range disposition of local sanctions, with a presumptive minimum of 10 days of confinement if the violation is based on possession of a firearm as a person under 18 years old. If the juvenile has four or more prior adjudications, he or she is subject to a term of JRA confinement.

#### Deferred Disposition.

Under a deferred disposition, a juvenile offender is found guilty and must complete certain conditions set out by the court, including probation and payment of restitution, in exchange for having his or her case dismissed. A juvenile offender is eligible for a deferred disposition unless he or she is charged with a sex or violent offense, has a criminal history including any felony, has a prior deferred disposition or deferred adjudication, or has two or more prior adjudications.

#### Juvenile Parole.

Following release from JRA custody, a juvenile offender may be required to comply with a program of parole administered by the Department of Social and Health Services (Department) in his or her community. Conditions of parole are specified by the Department, and may include participation in treatment services, reporting, pursuit of a course of study or employment, and remaining within specific geographic boundaries, among other conditions. The decision to place an offender on parole must be based on the Department's assessment of the offender's risk for re-offense upon release, with priority for parole resources given to offenders at moderate to high risk of re-offense.

#### Evidence-Based and Research-Based Programs.

The Washington State Institute for Public Policy (WSIPP) has undertaken comprehensive reviews of evidence-based policy strategies in various issue areas. Evidence-based practices are generally defined as programs or policies that are supported by a rigorous outcome evaluation clearly demonstrating effectiveness. A research-based practice has some research demonstrating effectiveness, but does not yet meet the standard of an evidence-based practice.

The WSIPP maintains and periodically updates a list of current findings for a variety of programs, including a cost analysis that examines whether the benefits from a given program exceed its costs. Several programs that are active in Washington have been evaluated and identified as cost-beneficial by the WSIPP, including Aggression Replacement Training (ART) and Functional Family Therapy (FFT).

#### *Aggression Replacement Training.*

Aggression Replacement Training is a 10-week intervention administered to groups of youth three times per week that is designed to help the youth develop anger-control skills, employ more appropriate behaviors, and correct anti-social thinking. A juvenile offender is generally eligible for ART if it is determined, based on the results of the formal assessment tool administered by the juvenile courts, that the offender has a moderate to high risk for re-offense and is aggressive or has social skills or attitudes and beliefs that lead to anti-social behavior.

#### *Functional Family Therapy.*

Functional Family Therapy is a structured, home-based family intervention involving 12 weekly visits. Functional Family Therapy uses a multi-step approach to enhance protective factors (that reduce likelihood of participation in criminal activities) and reduce risk factors (that increase likelihood of participation in criminal activities) in the family. A juvenile offender is generally eligible for FFT if the formal assessment tool indicates a moderate to high risk for re-offense and significant family problems.

**Summary:**

A juvenile court disposition or deferred disposition for Unlawful Possession of a Firearm must include a requirement that the juvenile participate in a qualifying evidence-based or research-based program, where available, except upon a written finding by the court that participation in a program would be inappropriate. The court's finding that program participation would be inappropriate must be based on the outcome of the juvenile's formal risk assessment.

The description of "qualifying program" includes: (1) ART; (2) FFT; or (3) any program applicable to the juvenile firearm offender population that has been identified in the current list compiled by the WSIPP as evidence-based or research-based and cost-beneficial.

A juvenile adjudicated of Unlawful Possession of a Firearm, Possession of a Stolen Firearm, Theft of a Firearm, or Drive-by Shooting and sentenced to JRA confinement may participate in ART, FFT, or Functional Family Parole aftercare following release if the juvenile meets eligibility requirements for these services. When assessing offenders for placement in evidence-based parole programs, the assessment must examine the ongoing treatment needs of the juvenile, in addition to the risk for re-offense.

The JRA must compile and analyze historical data regarding persons who made initial contact with the criminal justice system between 2005 and 2013, and were found to have committed a juvenile offense of Unlawful Possession of a Firearm. In particular, the JRA must examine data regarding offenders' previous and subsequent criminal history, interventions provided to offenders, and known gang association of offenders. The Department of Corrections and the Caseload Forecast Council must provide the JRA with any information necessary to complete the analysis, which may include individual identifier level data. The JRA must report its findings to the Legislature by October 1, 2014.

The Caseload Forecast Council may permit access to caseload forecast data for research purposes only if the anonymity of all persons mentioned in the records or information will be preserved.

**Votes on Final Passage:**

House	98	0	
Senate	44	5	(Senate amended)
House	77	19	(House concurred)

**Effective:** June 12, 2014