SENATE BILL REPORT
SB 6261

As of January 31, 2014

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: Senators Darneille and McAuliffe.

Brief History:
Committee Activity: Human Services & Corrections: 1/28/14.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Kevin Black (786-7747)

Background: Juveniles have the same privilege against self-incrimination in adjudicatory proceedings as adults have in criminal court. Some juveniles have invoked this privilege to avoid answering questions posed during mental health or chemical dependency screenings or assessments which are conducted for the benefit of the juvenile, based on the concern that statements made during the screening or assessment will be used to convict the juvenile.

Summary of Bill: Statements, admissions, or confessions made by a juvenile in the course of a mental health or chemical dependency screening or assessment may not be admissible into evidence against the juvenile on the issue of guilt, unless the juvenile places their mental health at issue. Such a statement is admissible for any other purpose allowed by law.

This prohibition does not apply to statements made to law enforcement, and may not be used to argue for derivative suppression of other evidence lawfully obtained as a result of the statement.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Youth who enter the juvenile justice system experience mental health challenges at three times the rate of the general youth population. Seventy percent of youth in the juvenile justice system have a diagnosable mental health disorder. Currently there is no clear law providing self-incrimination protection to youth undergoing screening and assessments. This creates unintended consequences: the youth may decline to participate in the screening or assessment, sometimes at the advice of counsel, or the youth may withhold information during the screening or assessment. The Models for Change mental health advisory committee vetted this proposal and recommends this change. The provisions of this bill are consistent with protections provided in 20 other states. This bill does not affect mandatory reporting and does not grant immunity to youth. The judge may still consider statements made during the screening or assessment at disposition, or when imposing sentence. Our association believes in accountability, but also that a screening or assessment is not the appropriate time to be gathering evidence against a youth. Moving treatment forward helps youth and will improve public safety. Screening youth when they enter detention helps protect against suicide and other acts of self harm. Prosecutors want to have full disclosure of issues that should be addressed in a juvenile disposition. The protections built into this bill effectively protect prosecutorial interests.

Persons Testifying: PRO: Hathaway Burden, Center for Children and Youth Advocacy; Tom McBride, WA Assn. of Prosecuting Attorneys; Philip Jans, WA Assn. of Juvenile Court Administrators.