

HOUSE BILL REPORT

HB 1505

As Reported by House Committee On:
Early Learning & Human Services

Title: An act relating to juvenile restorative justice programs.

Brief Description: Allowing prosecutors to refer juveniles to restorative justice programs.

Sponsors: Representatives Goodman, Kagi, Appleton, Jinkins and Tharinger.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/3/15, 2/17/15 [DPS].

Brief Summary of Substitute Bill

- Includes restorative justice programs within the definition of community-based rehabilitation, which is part of the community supervision imposed by a court as part of a juvenile offender disposition.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kagi, Chair; Walkinshaw, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Kilduff, McCaslin, Ortiz-Self and Senn.

Minority Report: Do not pass. Signed by 2 members: Representatives Dent and Hawkins.

Staff: Luke Wickham (786-7146).

Background:

Restorative Justice Generally.

Restorative justice is an approach to criminal justice that involves the victim, the offender, and the community to address an offender's actions.

Restorative Justice in Washington.

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.

The Legislature passed Substitute House Bill 1775 in 2012 that created a definition of restorative justice in the Juvenile Justice Act and allows diversion units to refer juveniles to restorative justice programs as part of a diversion agreement or as part of counseling and releasing a juvenile.

Restorative justice is defined in statute as practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members.

A juvenile diversion agreement is a contract between a juvenile accused of an offense and a diversion unit where the juvenile agrees to do certain things instead of prosecution.

In some circumstances, a diversion unit may counsel and release a juvenile without requiring him or her to enter into a diversion agreement.

Summary of Substitute Bill:

Restorative justice programs are included within the definition of community-based rehabilitation, which is part of the community supervision that is imposed by a court as part of a juvenile offender disposition.

Substitute Bill Compared to Original Bill:

The substitute bill includes restorative justice programs within the definition of community-based rehabilitation, which is part of the community supervision that is imposed as part of a juvenile offender disposition. The substitute bill removes the ability for prosecutors, juvenile diversion units, and juvenile probation officers to refer youth to restorative justice programs that was part of the original bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: 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 is an important bill. This is a follow up to a previous bill that was passed a few years ago, which included a definition of restorative justice. The bill would expand

restorative justice practices in our juvenile courts. The purpose of this bill is to get people thinking about the principles of restorative justice generally to get offenders and victims together voluntarily for the purpose of apology and healing. The previous bill allows restorative justice practices to be used in juvenile diversion programs. This bill would expand the use of restorative justice programs for juveniles to involve all cases except sex offenses and serious violent offenses. There is a problem with the bill regarding the timing of applying restorative justice programs. These restorative justice programs should occur after a disposition is established. This originated out of a situation that occurred in Western Samoa. In this scenario, an individual borrowed a bicycle from a tourist. In Western Samoa, there is an ancient tradition of communal ownership of property. However, the tourist viewed this action as stealing. This resulted in a clash of cultures. The elders gathered and decided that the individual would need to earn the number of pigs it would take to put on a feast for the village to restore the individual and welcome him back to the community. If the individual did not earn enough for this feast, he would not be allowed back in the village. New Zealand, Australia, and some other countries have a Family Conference Act that approaches juvenile justice in this manner. There is a difference between shame, which an individual should feel after the commission of a crime, and stigma, which is to be avoided in the juvenile justice system. This process works so well because it brings together the victim and the offender so that the offender is aware of the damage that was done, and decreases the probability of the criminal activity recurring. This is particularly important with the growing level of incarceration in this country and the high recidivism rates. It is important to reverse criminal behavior immediately. This bill allows victims to choose to participate in these programs. The prosecutor gets to choose whether this is an appropriate practice in a particular case.

(With concerns) The Juvenile Court Administrators are supportive of restorative justice concerns. There are some mechanical issues that need to be addressed. We need to determine whether attorneys will be representing youth in these situations and at what stage of the proceedings these programs are implemented.

(Opposed) None.

Persons Testifying: (In support) Representative Goodman, prime sponsor; and Steven Aldrich, Friends Committee on Washington Public Policy.

(With concerns) Tom McBride, Washington Association of Juvenile Court Administration.

Persons Signed In To Testify But Not Testifying: None.