

HOUSE BILL REPORT

ESHB 2906

As Passed House:
February 15, 2016

Title: An act relating to strengthening opportunities for the rehabilitation and reintegration of juvenile offenders.

Brief Description: Strengthening opportunities for the rehabilitation and reintegration of juvenile offenders.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Stambaugh, Kagi, Magendanz, Tharinger, Ortiz-Self, Frame, Goodman and Ormsby).

Brief History:

Committee Activity:

Early Learning & Human Services: 2/3/16, 2/5/16 [DPS].

Floor Activity:

Passed House: 2/15/16, 85-12.

Brief Summary of Engrossed Substitute Bill

- Adds rehabilitation and reintegration of juvenile offenders to the purposes underlying the Juvenile Justice Act of 1977.
- Requires the court to defer a juvenile offender's disposition when eligible, except when a juvenile offender is charged with animal cruelty.
- Provides judicial discretion regarding fines for juveniles found to have committed motor vehicle related offenses.
- Allows a prosecutor to use his or her discretion to determine whether to file the information as a domestic violence offense if the juvenile offense was committed against a sibling, parent, stepparent, or grandparent.
- Eliminates the requirement that courts and diversion units notify the Department of Licensing after a juvenile offender's first offense or diversion agreement for an offense while armed with a firearm or offense related to drugs or alcohol.

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.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Kagi, Chair; Walsh, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Hawkins, Kilduff, McCaslin, Ortiz-Self, Sawyer, Scott and Walkinshaw.

Minority Report: Without recommendation. Signed by 1 member: Representative Senn, Vice Chair.

Staff: Luke Wickham (786-7146).

Background:

Juvenile Justice Act of 1977.

From 1913 to 1977 the juvenile justice system in Washington attempted to act as a parent for juveniles. Juvenile court during that period could intervene in the lives of juveniles who were alleged to be dependent or delinquent.

The Juvenile Justice Act of 1977 recreated the juvenile justice system in Washington to closely resemble the adult criminal justice system by establishing determinate sentencing and due process protections for juveniles.

The purposes of the Juvenile Justice Act of 1977 include:

- protecting the citizenry from criminal behavior;
- determining whether accused juveniles have committed offenses;
- making juveniles accountable for criminal behavior;
- providing for punishment commensurate with the age, crime, and history of the juvenile offender;
- providing due process for juveniles alleged to have committed an offense;
- providing necessary treatment, supervision, and custody for juvenile offenders;
- providing for the handling of juvenile offenders by communities whenever consistent with public safety;
- providing for restitution to victims of crime;
- developing effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels;
- providing for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services;
- providing opportunities for victim participation in juvenile justice process, including court hearings on juvenile offender matters, and ensuring that Article I, section 35 of the Washington state Constitution, the victim bill of rights, is fully observed; and
- encouraging the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process.

Minimum Sentencing for Juvenile Offenders for Motor Vehicle Related Offenses.

In 2007 mandatory minimum sentencing requirements were established for juveniles found to have committed motor vehicle related offenses.

A juvenile offender adjudicated of Taking a Motor Vehicle Without Permission in the First Degree is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior felony adjudications and two or fewer misdemeanor adjudications must be sentenced to a minimum of three months community supervision, 45 hours of community restitution, a \$200 fine, and a requirement that the juvenile remain at home for no less than five days.
- Juveniles with one prior felony adjudication or between three and six misdemeanor adjudications must be sentenced to a minimum of six months community supervision, 10 days detention, 90 hours of community restitution, and a \$400 fine.
- Juveniles with two or more prior felony adjudications or eight or more misdemeanor adjudications must be sentenced to a minimum of 15 to 36 weeks confinement, four months supervision, 90 hours of community restitution, and a \$400 fine.

A juvenile offender adjudicated of Theft of a Motor Vehicle or Possession of a Stolen Vehicle is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior felony adjudications and two or fewer misdemeanor adjudications must be sentenced to a minimum of three months community supervision, 45 hours of community restitution, and a \$200 fine, and either 90 hours of community restitution or a requirement that the juvenile remain at home for no less than five days.
- Juveniles with one prior felony adjudication or between three and six misdemeanor adjudications must be sentenced to a minimum of six months community supervision, 10 days of detention, 90 hours of community restitution, and a \$400 fine.
- Juveniles with two or more prior adjudications or eight or more prior misdemeanor adjudications must be sentenced to a minimum of 15 to 36 weeks of confinement, four months of supervision, 90 hours of community restitution, and a \$400 fine.

A juvenile offender adjudicated of the offense of Taking a Motor Vehicle Without Permission in the Second Degree is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior felony adjudications or two or fewer misdemeanor adjudications must be sentenced to three months of community supervision, 15 hours community restitution, and a requirement that the juvenile remain at home for no less than one day.
- Juveniles with one prior felony adjudication or between three and six misdemeanor adjudications must be sentenced to a minimum of one day detention, three months of community supervision, 30 hours of community restitution, a \$150 fine, and a requirement that the juvenile remain at home for no less than two days.
- Juveniles with two or more prior felony adjudications or eight or more misdemeanor adjudications must be sentenced to a minimum of three days detention, seven days home detention, six months supervision, 45 hours of community restitution, and a \$150 fine.

For all of these motor vehicle related offenses, juveniles may be subject to electronic monitoring where available.

Deferred Disposition.

A juvenile disposition is a court's order after a juvenile is found guilty of having committed an offense. A deferred disposition requires a juvenile to complete certain conditions set out by the court including probation and payment of restitution, while the court defers the disposition. If the juvenile successfully completes the required conditions, the court will dismiss the case. If the juvenile does not successfully complete the conditions, the court may impose the disposition that had been deferred.

A juvenile is eligible for a deferred disposition unless he or she is charged with a sex or violent offense, has a criminal history that includes any felony, or has two or more prior adjudications. If a juvenile is eligible, the court has the discretion whether or not to grant a deferred disposition.

Domestic Violence Offenses.

After responding to a domestic violence call, a law enforcement officer must forward the offense report to the prosecuting attorney within 10 days of making a report if there is probable cause to believe that an offense was committed, unless the case is under active investigation.

Department of Licensing Notification of Juvenile Offenses.

Courts must notify the Department of Licensing (DOL) within 24 hours after a juvenile 13 years of age or older is found to have committed:

- an offense while armed with a firearm;
- unlawful possession of a firearm; or
- a drug or alcohol-related offense.

Upon receipt of the first notification from a court that one of the above offenses was committed, the DOL must revoke a juvenile's driver license for one year, or until the juvenile reaches 17 years old, whichever is longer. Upon notice of the second offense above, the DOL must impose a revocation for two years or until the juvenile reaches 18 years old, whichever is longer.

If a juvenile enters into a diversion agreement for an offense while armed with a firearm or a drug or alcohol related offense, the diversion unit must notify the DOL. Once a juvenile completes a diversion agreement for one of these offenses, the DOL must reinstate the juvenile's driving privileges so long as the juvenile has had their driving privileges revoked for at least 90 days for a first offense, or one year for a second offense.

Restorative Justice.

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

Summary of Engrossed Substitute Bill:

Rehabilitation and reintegration of juvenile offenders are added to the purposes underlying the Juvenile Justice Act of 1977.

Restorative justice programs are added to community-based rehabilitation for juvenile offenders.

A court must defer a juvenile offender's disposition when eligible, except when a juvenile offender is charged with animal cruelty. The court has discretion whether to grant a deferred disposition when a juvenile is charged with animal cruelty, and must consider whether the community would benefit from the youth being granted a deferred disposition.

Courts are given discretion regarding the imposition of fines after a juvenile offender is adjudicated of Taking a Motor Vehicle Without Permission in the First and Second Degrees, Theft of a Motor Vehicle, and Possession of a Stolen Vehicle. The mandatory 45 hours of community restitution for juveniles adjudicated of Theft of a Motor Vehicle or Possession of a Stolen Vehicle with a prior criminal history score of zero to one-half is eliminated.

Juveniles adjudicated of Theft of a Motor Vehicle or Possession of a Stolen Motor Vehicle with a prior criminal history score of zero to one-half points must perform either 90 hours of community restitution, be confined at home for at least five days, or complete a combination of those two that includes a minimum of three days home confinement and a minimum of 40 hours of community restitution.

After receiving an offense report from law enforcement that includes information related to domestic violence, the prosecutor may use his or her discretion to determine whether to file the information as a domestic violence offense if the juvenile offense was committed against a sibling, parent, stepparent, or grandparent. In determining whether to file an information as a domestic violence offense, the prosecuting attorney may take into consideration a victim's request or the lack of objection from a victim.

The DOL would no longer be notified by a court or diversion unit after a juvenile offender's first offense or diversion agreement for:

- an offense while armed with a firearm;
- unlawful possession of a firearm; or
- a drug or alcohol-related offense.

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) It is important to add rehabilitation and reintegration to the Juvenile Justice Act of 1977. By eliminating motor vehicle offense fees, this bill expands upon the legislative work completed last year regarding juvenile legal financial obligations. This bill increases discretion for prosecutors in determining whether to include domestic violence in juvenile offenses. This bill helps our criminal justice system respond to the needs of our community.

This bill is the product of juvenile justice practitioners coming together on some small matters. This bill attempts to make sure that juveniles adjudicated of an offense do not reoffend. A prosecutor and a defense attorney with many decades of experience came together and agreed on these proposals. This bill provides greater discretion to prosecutors and eliminates certain fines for juveniles which will allow for greater opportunities for juvenile offenders to reintegrate into the community.

Prosecutors do have discretion regarding charging decisions, but it is helpful to include language in statute that specifies that prosecutors have this discretion. Judges make good decisions; however, there are times when one co-defendant receives a deferred disposition and the other does not. Mandating that juveniles eligible for a deferred disposition receive that deferral leads to greater fairness.

This is a well thought out bill supported by the Washington Association of Criminal Defense Lawyers and the Washington Defender Association. This act is consistent with a statewide initiative to improve juvenile public defense. The Washington Association of Prosecuting Attorneys supports this bill.

The juvenile courts know that there are many barriers for juvenile offenders reintegrating into the community. For many reasons, this bill helps with the rehabilitation of youth both procedurally and psychologically.

(Opposed) None.

Persons Testifying: Representative Stambaugh, prime sponsor; Thomas O'Ban, Columbia Legal Services; Todd Dowell, Washington Association of Prosecuting Attorneys; George Yeannakis, Washington State Office of Public Defense; and Tom McBride, Washington Association of Juvenile Court Administrators.

Persons Signed In To Testify But Not Testifying: None.