

SENATE BILL REPORT

ESHB 2746

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 25, 2016
Ways & Means, February 29, 2016

Title: An act relating to mental health and chemical dependency treatment for juvenile offenders.

Brief Description: Concerning mental health and chemical dependency treatment for juvenile offenders.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Walkinshaw, Walsh, Kagi, Senn, Frame, Kilduff, Sawyer, McBride, Goodman, Ormsby and Tarleton).

Brief History: Passed House: 2/17/16, 93-4.

Committee Activity: Human Services, Mental Health & Housing: 2/25/16 [DP-WM].
Ways & Means: 2/19/16, 2/29/16 [DP].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove and Padden.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Billig, Brown, Conway, Darneille, Hasegawa, Nelson, O'Ban, Padden, Parlette, Pedersen, Rolfes, Schoesler and Warnick.

Staff: Travis Sugarman (786-7446)

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.

Background: Juvenile Dispositions. In the juvenile justice system, sentences for juvenile offenders are referred to as "dispositions." If a juvenile is found guilty of committing an offense, the court enters an order of disposition. Most disposition orders impose a punishment that is based upon a standard-range grid, which is set out in statute. The disposition order in a juvenile offender's case may include detention, community service, a period of community supervision, restitution, and/or a fine. The standard-range disposition is determined by the seriousness of the offense and the juvenile's prior criminal history. For less serious offenses, the court may impose "local sanctions," where the juvenile may not be sentenced to more than 30 days in detention. If an offense is serious enough, or if a juvenile has a significant offender history, the juvenile may be committed to a facility within the Juvenile Rehabilitation Administration (JRA), which is within the Department of Social and Health Services (DSHS). Under certain circumstances, the court may deviate from the standard range and impose a disposition alternative or a sentence that is higher or lower than the standard range.

Disposition Alternatives. Disposition alternatives are referred to in statute as "Options." The juvenile disposition options are:

- Option A (Standard-Range Sentence);
- Option B (Suspended Disposition Alternative);
- Option C (Chemical Dependency Disposition Alternative); and
- Option D (Manifest Injustice).

Option A is the standard-range sentence. Under Option B, the court may suspend a sentence that requires a commitment to the JRA and impose conditions that the juvenile must meet. If the juvenile fails to meet those conditions, the court may require the juvenile to serve the JRA commitment. Option C permits the court to impose an alternative sentence for an offender who may need substance abuse treatment. Option D allows the court to impose an alternative sentence if the standard-range sentence would be a "manifest injustice," either too harsh or too lenient. Before imposing a sentence under Option D, the court must support its findings by clear, cogent, and convincing evidence.

Chemical Dependency Disposition Alternative. The Chemical Dependency Disposition Alternative (CDDA) is an alternative sentence for juvenile offenders who may need chemical dependency treatment. Juvenile offenders are eligible for a CDDA if the juvenile is subject to a standard-range disposition of local sanctions or 13 to 36 weeks of confinement and the juvenile has not committed an A-minus or B-plus offense, other than a first time B-plus drug offense. In these cases, the court may order a chemical dependency evaluation to determine if the youth is chemically dependent.

If the court determines that a CDDA is appropriate, the court must impose a disposition and suspend that disposition with a condition that the juvenile undergo outpatient or inpatient chemical dependency treatment. Inpatient treatment for this purpose must not exceed 90 days. The court may also impose conditions of community supervision and other sanctions as part of the CDDA.

If the juvenile violates any condition of the CDDA, or the court finds that the juvenile is failing to make satisfactory progress in treatment, the court may impose sanctions or revoke the suspension.

Community Supervision of Juvenile Offenders. Community supervision for juvenile offenders means an order of disposition for a youth adjudicated of a juvenile offense who is not committed to a sentence at a JRA institution, or granted a deferred disposition. Community supervision orders for a single offense may be for a period of up to two years for a sex offense and up to one year for other offenses. Courts must order a juvenile, as a condition of community supervision, to refrain from committing new offenses. The court must also order a condition mandating school attendance. Community supervision may also include one or more of the following:

- a fine not to exceed \$500 and community service not to exceed 150 hours;
- employment;
- attendance at information classes;
- literacy classes;
- counseling;
- outpatient substance abuse and mental health treatment programs;
- anger management classes;
- education or outpatient treatment programs to prevent animal cruelty;
- other services;
- attendance at school or other educational programs appropriate for the juvenile as determined by the school district;
- monitoring and reporting requirements; and
- posting of a probation bond.

Summary of Bill: Residential Treatment Included in Community Supervision. A court may include residential treatment for substance abuse, mental health, or co-occurring disorders that have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, or chemical dependency professional in the community supervision of a juvenile offender when a funded bed is available. A court may order residential treatment after considering factors such as whether:

- the referral is necessary to rehabilitate the child;
- the referral is necessary to protect the public or the child;
- the referral is in the child's best interest;
- the child has been given an opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and
- inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

In cases where the court orders a child to inpatient treatment pursuant to community supervision requirements, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment.

Disposition Alternatives. The juvenile mental health disposition alternative is repealed.

Mental health is added to the Chemical Dependency Disposition Alternative to create the Chemical Dependency or Mental Health Disposition Alternative. This disposition alternative is available to certain juvenile offenders where the evidence shows that the offender has significant mental health or co-occurring disorders after examination by a mental health

professional. After receiving this report, the court must consider whether the offender and community will benefit from the disposition alternative. The court may order the offender to attend inpatient or outpatient mental health or co-occurring disorder treatment as a condition of the suspended sentence.

A funded bed must be available before a judge may order a juvenile to inpatient treatment. The 90-day maximum length of inpatient treatment under this disposition alternative is removed. If the inpatient treatment is longer than 90 days, the court must hold a review hearing every 30 days beyond the initial 90 days. The respondent may appear telephonically at these review hearings if compliant with treatment.

Subject to funding, DSHS must pay for costs incurred by the juvenile courts for the mental health, chemical dependency, and/or co-occurring disorder evaluations, treatment, and supervision associated with these disposition alternatives.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Human Services, Mental Health & Housing): PRO: This bill is supported by superior court judges. It could drive long-term cost savings. The limitation to ordering treatment when there is capacity available was added based on fiscal concerns. This provides one more arrow in the quiver of judges to place juveniles in the best treatment possible to address their issues.

Persons Testifying (Human Services, Mental Health & Housing): PRO: Representative Walkinshaw, Prime Sponsor; Tom Parker, Superior Court Judges Assn.

Persons Signed In To Testify But Not Testifying: No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill gives local courts another option and makes it clear that it needs to be within available resources. My juvenile officers will need to be the ones to find a bed or we can't use the option. We think the option is pretty necessary and will be helpful for a lot of kids.

Persons Testifying (Ways & Means): PRO: Stephen Warning, Superior Court Judges Association.

Persons Signed In To Testify But Not Testifying: No one.