

# SENATE BILL REPORT

## SSB 6529

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As Amended by House, March 3, 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:** Senate Committee on Human Services, Mental Health & Housing (originally sponsored by Senators Hargrove, Miloscia, Hewitt, Pedersen and McAuliffe).

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 2/02/16, 2/04/16 [DPS].

Passed Senate: 2/16/16, 47-1.

Passed House: 3/03/16, 55-40.

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### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Majority Report:** That Substitute Senate Bill No. 6529 be substituted therefor, and the substitute bill do pass.

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

**Staff:** Kevin Black (786-7747)

**Background:** A deferred disposition is a form of resolution in juvenile court in which, upon motion by the juvenile, the court continues the trial for up to one year, during which time the juvenile is placed on community supervision and ordered to abide by specified conditions, which may include assessment and treatment for mental health or substance abuse. The court may extend supervision for up to one additional year for good cause. The juvenile must stipulate to the admissibility of facts contained in a police report and waive the juvenile's trial rights. A prosecutor or community supervision counselor may request a revocation hearing based on lack of compliance. A juvenile is eligible for a deferred disposition unless the juvenile:

- is charged with a sex or violent offense;
- has a criminal history which includes any felony;
- has a prior deferred disposition or deferred adjudication; or
- has two or more adjudications.

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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.*

The court may grant a deferred disposition upon motion by the juvenile if it finds that the offender and the community will benefit from the disposition. At the end of the supervision period, the court must dismiss the deferred disposition if the juvenile has completed the terms of supervision, including making a good faith effort to pay restitution.

Juveniles who are adjudicated in juvenile court for the crime of taking a motor vehicle without permission in the first degree or second degree, theft of a motor vehicle, or possession of a stolen vehicle are required to pay additional mandatory fines which cannot be waived by the court of \$150, \$200, or \$400 depending on the offense and the juvenile's prior criminal history score. The juvenile may also be subjected to electronic monitoring if available and ordered to undergo other minimum additional sanctions including community restitution hours, community supervision, and detention. A three-year analysis of these mandatory fine provisions by the Administrative Office of the Courts indicates an annual average of \$493,483 in fines ordered and \$34,925 paid.

Any person 16 years of age or older is subject to mandatory arrest by a police officer if the officer has probable cause to believe that the person assaulted a family or household member within the preceding four hours, and the officer believes that:

- a felonious assault has occurred;
- an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable or not; or
- any physical action has occurred which was intended to cause another person to reasonably fear imminent serious bodily injury or death.

For the purpose of this provision, bodily injury means physical pain, illness, or an impairment of physical condition.

If a juvenile is found by juvenile court to have committed an offense while armed with a firearm or a drug or alcohol offense, the court must notify the Department of Licensing (DOL) to revoke the juvenile's privilege to drive within 24 hours. If the offense is the juvenile's first offense, the juvenile may petition juvenile court to reinstate the juvenile's driving privilege after 90 days, or 90 days after the juvenile turns 16, whichever is later. If the offense is the juvenile's second or subsequent offense, the juvenile may petition juvenile court to reinstate the juvenile's driving privileges after one year, or when the juvenile turns 17, whichever is later. If the juvenile enters a diversion agreement for one of these offenses, the court must notify DOL to revoke the juvenile's privilege to drive, and notify DOL to reinstate the privilege when the juvenile has completed the diversion agreement.

**Summary of Substitute Bill:** The court must grant a deferred disposition to a juvenile who is eligible for the agreement upon motion by the juvenile. The court may deny a motion to grant a deferred disposition if the juvenile is charged with animal cruelty in the first degree, but must consider the community benefit before determining whether to grant the deferred disposition.

Upon receiving an offense report, the prosecuting attorney may choose to not file a criminal referral as a domestic violence offense if the offense was committed against a sibling, parent, stepparent, or grandparent.

All additional mandatory fines are eliminated for the crimes of taking a motor vehicle without permission in the first degree or second degree, theft of a motor vehicle, and possession of a stolen vehicle. Language allowing the juvenile to be subjected to electronic monitoring where available is eliminated in some instances. A mandatory additional sanction of 45 hours of community restitution for juveniles with a criminal history score of zero to one half who are adjudicated for the crimes of theft of a motor vehicle or possession of a stolen vehicle is changed to a minimum of three days home confinement and a maximum of 40 hours of community restitution.

Mandatory arrest is eliminated for juveniles aged 16-17 when a police officer has probable cause to believe the juvenile has committed an assault against a family or household member within the preceding four hours that has resulted in bodily injury to the victim. The officer may arrest the juvenile in this circumstance, and when deciding must consider factors including the extent of injuries inflicted and the history of domestic violence or stalking of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

A requirement for the juvenile court to notify DOL to revoke a juvenile's privilege to drive following an adjudication or diversion agreement for a first offense in which the juvenile was armed with a firearm or a first offense relating to possession of a firearm or relating to alcohol, controlled substances, or imitation controlled substances is eliminated.

It is specified that one purpose of the Juvenile Justice Act is to provide for the rehabilitation and reintegration of juvenile offenders.

**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 on Original Bill:** PRO: We need to think creatively about how to keep juvenile offenders from re-offending. The contents of this bill come from practitioners in the criminal justice system who have agreed on some small steps forward. We support taking away judicial discretion to deny a deferred disposition agreement. Please remove the mandatory arrest provision in section four, because this mandatory arrest is used as a trigger for entry into a diversion program in King County. Please add a provision giving prosecutors discretion to add or remove the domestic violence tag. Deferred disposition program allow juveniles to make one big mistake and not have it affect them for the rest of their lives. Kids should have this opportunity for diversions if they qualify. This act builds on the Youth Opportunities Act and Youth Integration Act. We especially support the provision giving discretion to the officer whether or not to make an arrest in some domestic violence situations. We oppose taking away judicial discretion to deny a deferred disposition agreement. Kids experience a lot of barriers integrating back into the community. Thank you for putting rehabilitation back into the forefront in dealing with kids.

CON: We are concerned with the language in section three which eliminates mandatory minimum provisions relating to community restitution and electronic home monitoring. If those parts were changed, we would not have concerns about the bill.

**Persons Testifying on Original Bill:** PRO: Thomas O'Ban, Columbia Legal Services; Todd Dowell, Kitsap Prosecuting Attorney's Office, WA Assn. of Prosecuting Attorneys; George Yeannakis, Office of Public Defense; Steve Warning, Superior Court Judges Association; Tom McBride, Jim Madsen, WA Assn. of Juvenile Court Administrators.

CON: James McMahan, WA Assoc Sheriffs and Police Chiefs.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.

**House Amendment(s):**

- Expands definition of "community-based rehabilitation" to include restorative justice programs.
- Retains option for electronic home monitoring for some juveniles adjudicated for vehicle crimes.
- Removes section eliminating mandatory arrest provisions for juveniles aged 16-17 years old for assaults against a family member.
- Limits the prosecutor's discretion to not file a domestic violence tag in the case of an assault against a sibling, parent, stepparent, or grandparent to situation in which the charge was against a juvenile and provides that a prosecutor may take into consideration whether the victim of the offense requests that an information not be filed as a domestic violence offense or does not object to the same.