

HOUSE BILL REPORT

SB 5614

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

Title: An act relating to diversion agreements and counsel and release agreements by modifying the conditions under which both may be entered into and mandating eligibility for automatic destruction.

Brief Description: Concerning diversion agreements and counsel and release agreements.

Sponsors: Senators Darneille, Hasegawa and Kuderer.

Brief History:

Committee Activity:

Early Learning & Human Services: 3/21/17, 3/29/17 [DP].

Brief Summary of Bill

- Removes the requirement that a prosecutor file a criminal charge against a juvenile who has three or more diversion agreements on his or her criminal history.
- Expands the destruction of juvenile records to include successfully all completed diversion agreements and counsel and release agreements when there is no restitution owing on the case.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass. Signed by 7 members: Representatives Kagi, Chair; Senn, Vice Chair; Frame, Goodman, Kilduff, Lovick and Ortiz-Self.

Minority Report: Do not pass. Signed by 3 members: Representatives Griffey, Klippert and Muri.

Minority Report: Without recommendation. Signed by 3 members: Representatives Dent, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; McCaslin.

Staff: Luke Wickham (786-7146).

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:

Diversion of Juvenile Cases.

If a juvenile is alleged to have committed a misdemeanor or gross misdemeanor, and it is his or her first violation, the prosecutor is required to "divert" the case rather than file a complaint. In some circumstances, the prosecutor has discretion whether to allow the juvenile to enter into a diversion or file the case. Except under certain circumstances, a juvenile may have no more than three diversions.

A case is diverted when the juvenile enters into an agreement, which may include, among other things, a requirement that the juvenile attend counseling, educational, or informational sessions at a community agency. A diversion agreement may be between a juvenile and a probation counselor, community accountability board, youth court under the supervision of the juvenile court, or other entity.

If a juvenile violates his or her diversion agreement, then the case is referred back to the prosecuting attorney for the filing of criminal charges in court.

Counsel and Release.

A diversion unit may counsel and release a juvenile in cases that do not involve a victim. A diversion unit may also counsel and release juveniles: (1) with no prior criminal history; (2) who are alleged to have committed an illegal act that did not involve a threat or instance of physical harm; (3) involved in cases that do not involve more than \$50 in property loss or damage; and (4) when there is no loss outstanding to the person of firm suffering the damage or loss. A counsel and release agreement does not require a juvenile to complete the terms of a diversion agreement, but the diversion unit may refer the juvenile to community-based counseling, treatment programs, or a restorative justice program.

Destruction of Juvenile Court Records.

Certain juvenile records maintained by courts and law enforcement must be destroyed within 90 days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

- the subject of the records is at least 18 years of age;
- the person's criminal history consists entirely of one diversion agreement or counsel and release;
- two years have elapsed since completion of the diversion agreement or counsel and release;
- no proceeding is pending against the person seeking the conviction of a criminal offense; and
- there is no restitution owing in the case.

Summary of Bill:

The requirement that a prosecutor file an information with a juvenile court where a case is legally sufficient and an alleged juvenile offender has three or more diversion agreements on his or her criminal history is removed.

All successfully completed diversion and counsel and release agreements are eligible for destruction when a youth turns 18 years old and there is no restitution owing on a case.

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) The juvenile detention alternatives movement seeks to improve outcomes for youth who have committed criminal offenses. Diversion is a much more effective intervention than detention. Detention has negative impacts on juveniles such as reduced graduation rates. Diversion efforts are a much more effective way to respond to juvenile criminal behavior with a proven track record of improving outcomes for youth. This bill alleviates the inability for prosecutors to file diversions instead of criminal charges in certain cases. This would simply provide prosecutors greater discretion regarding filing a diversion or a criminal charge. Nothing in the bill would require that prosecutors divert cases; it would just increase prosecutorial discretion. The incentive to complete diversion agreements increases by making all successfully completed diversions eligible for destruction.

(Opposed) None.

Persons Testifying: Senator Darneille, prime sponsor; and Paul Alig, TeamChild.

Persons Signed In To Testify But Not Testifying: None.