

SENATE BILL REPORT

2SHB 1280

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, March 28, 2017

Title: An act relating to including referred and diverted youth in establishing community juvenile accountability program guidelines.

Brief Description: Including referred and diverted youth in establishing community juvenile accountability program guidelines.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Kagi and Fey).

Brief History: Passed House: 3/06/17, 64-34.

Committee Activity: Human Services, Mental Health & Housing: 3/27/17, 3/28/17 [DPA-WM, DNP].

Brief Summary of Amended Bill

- Expands the target population of community juvenile accountability programs to include referred youth and requires DSHS to report the number of referred youth receiving community accountability services by county.
- Adds stop-loss protection for counties that lose more than 2 percent of their block grant per year because referred youth are added to the program and requires a minimum block grant level to be set as part of the funding formula.
- Authorizes a police officer to arrest a youth at a domestic violence call but does not require arrest or booking of a person less than 18 years of age.
- Changes the filing criteria for criminal charges against a juvenile and addresses destruction of a juvenile's criminal record if the record is limited to pre-adjudication diversion agreements, but otherwise preserves existing authority to destroy or seal records as provided by law.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

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

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.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle, Hunt and Walsh.

Minority Report: Do not pass.
Signed by Senator Padden.

Staff: Melissa Burke-Cain (786-7755)

Background: The Community Juvenile Accountability Act (CJAA) allows local governments to submit proposals for funding community juvenile accountability programs in their communities. These proposals must be submitted to the Juvenile Rehabilitation Administration (JRA) of the Department of Social and Health Services (DSHS). A Community Juvenile Accountability Program (CJAP) proposal must include:

- a demonstration that the proposal was developed with the input of the community public health and safety networks, and the local law and justice councils;
- a description of how local community groups or members are involved in the implementation of programs; and
- a description of how the grant funds will contribute to the expected outcomes of the program and the reduction of youth violence and juvenile crime in the community.

Local governments that receive CJAP funding must agree that the funds they receive be used efficiently to encourage the use of community-based programs that reduce the reliance on juvenile offender secure confinement. The JRA, in consultation with the Washington Association of Juvenile Court Administrators, the state law and justice advisory council, and the family policy council, establishes CJAP guidelines. These guidelines must:

- target diverted and adjudicated juvenile offenders;
- include assessment methods to determine services, programs, and intervention strategies;
- provide maximum structured supervision in the community;
- promote work ethic values and educational skills and competencies;
- maximize the efficient delivery of treatment services that reduce risk factors associated with committing juvenile offenses;
- maximize reintegration of the juvenile offenders into the community after release;
- maximize a juvenile offender's ability to make restitution to the victims;
- support an encourage increased court discretion in imposing community-based intervention;
- be compatible with research;
- be outcome-based;
- include an evaluation component; and
- recognize the diversity of local needs.

The CJAA required the Washington State Institute for Public Policy (WSIPP) to develop standards for measuring the effectiveness of juvenile accountability programs funded by the CJAP. WSIPP has evaluated the effectiveness of several juvenile justice programs including the Coordination of Services Program, Aggression Replacement Therapy, Family Integrated Transitions, Functional Family Therapy, and Multisystemic Therapy.

Under current law, law enforcement officers routinely respond to emergency calls involving alleged criminal activity by juveniles. Current law requires a law enforcement officer to arrest and a youth under 18 years of age for domestic violence assault if certain criteria are met. If arrested for domestic violence assault, the juvenile must be booked into juvenile detention. Outside the context of a domestic violence call, the responding officer may exercise discretion based on specific arrest criteria when deciding the best way to deal with alleged criminal activity by a juvenile while protecting public safety. If an arrest of a juvenile occurs, there are several avenues of formal and informal juvenile justice system action available including referring the youth for community based services, entering into pre-adjudication agreements, or filing formal charges leading to adjudication. A prosecutor reviews a potential criminal charges. The prosecutor must file the charge if one of the mandatory filing criteria for charges against a juvenile applies to the case, but may also exercise discretion to defer formal charges if early intervention programs are appropriate or the circumstances warrant an alternative to formal charges. If a juvenile's criminal history is limited to diversion or other alternative to formal charges, and all requirements of the program, informal disposition or diversion are completed, the criminal record may be destroyed after the defendant turns 18 years of age, and other criteria are met. Under certain circumstances, a juvenile's criminal record may be destroyed when the youth turns 18 years of age. Other laws allow for sealing of juvenile records.

Summary of Amended Bill: The target population of community juvenile accountability programs is expanded to include referred youth, in addition to the existing target populations that include diverted and adjudicated juvenile offenders.

Referred youth are defined and include youth who: (1) were contacted by law enforcement who have probable cause to believe the youth committed a crime; (2) are referred to a program; and (3) if not for that program, would have been diverted or charged with a crime.

DSHS is required to provide an annual report to the Legislature on December 1st for the next three years that includes the number of youth who were eligible for community juvenile accountability program services because they meet the criteria of a referred youth under the bill. DSHS must provide stop-loss protection in the event the addition of referred youth as a target group for community accountability program services changes the distribution of the block grant funds and a county has a funding loss of more than 2 percent from one year to the next. A block grant oversight committee must also establish a minimum base levels for the block grant to counties with small numbers of at-risk youth eligible for community accountability program services.

A prosecutor is not required to file charges against a juvenile who has a history of three or more diversions. A juvenile's criminal records must be destroyed when the defendant reaches 18 years of age if the records are limited to completed diversions and counsel and release agreements, and all restitution is paid. The destruction requirement applies to records of diversions and counsel and release agreements completed after the bill's effective date. This change has no effect on other laws requiring or permitting destruction or sealing of juvenile records in specific circumstances.

In a domestic violence response involving a youth less than 18 years of age, mandatory arrest and booking into juvenile detention is not required. The responding law enforcement officer

has the same authority to arrest a juvenile in a domestic violence call as the officer has when responding to other calls involving a juvenile's alleged criminal behavior.

EFFECT OF HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE AMENDMENT(S):

- Provides a stop-loss provision and for revisions to the block grant formula to set a minimum funding level for counties receiving Community Accountability Block Grants from the Juvenile Rehabilitation Administration.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Second Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Currently, a youth has to be charged before becoming eligible for the community accountability program services. This bill would allow the youth to receive program services without being charged and creating a record. Counties are concerned that expanding this target group to include referred youth under the current formula for block grants will cause some counties to lose funds while others gain funds based on the number of referred youth coming into the program. To address the funding concern, the proposed house budget has proviso language providing a 2 percent stop-loss per year for affected counties. There has been significant work done to find ways to help reform juvenile justice with more early prevention using models that allow more services upstream. Testimony suggested the Superior Court Judges Association and the Juvenile Court Administrators Associations have changed their opposition to the bill to support for the bill with the proposed changes defining "referred youth" and adding a stop-loss mechanism for counties included in budget proviso. Many tribal youth have successfully been through the community accountability program. Without the early intervention services, the chances of recidivism go up. While it is an advantage to have the services, having a record established by a deferred or adjudicated case impairs the chance for college admission and jobs. It would be helpful to allow these services without the need for the youth to be charged with a crime.

Persons Testifying: PRO: Representative Ruth Kagi, Prime Sponsor; April Putney, King County; Helen Fenrich, Tulalip Tribes.

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