

SENATE BILL REPORT

SB 5962

As of February 22, 2019

Title: An act relating to providing for the welfare of children in the custody of juvenile rehabilitation.

Brief Description: Providing for the welfare of children in the custody of juvenile rehabilitation.

Sponsors: Senators Nguyen, Darneille, Wilson, C. and Kuderer.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 2/20/19.

Brief Summary of Bill

- Provides that the Department of Children, Youth, and Families (DCYF) must ensure that persons in the custody of a Juvenile Rehabilitation (JR) facility who need a special education assessment receive a timely assessment.
- Requires DCYF to ensure that a school district operating within a JR facility makes reasonable efforts to contact a person authorized to act as a parent for a minor who needs a special education assessment, or follows procedures to designate a surrogate parent.
- Requires DCYF to determine if any minors are currently residing in a JR facility who need a special education assessment and report to the Legislature by October 1, 2019.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Staff: Kevin Black (786-7747)

Background: Juvenile Rehabilitation Institutions. JR is a division of the Department of Social and Health Services which is scheduled to transfer to DCYF on July 1, 2019. JR operates three juvenile residential institutions for adjudicated juveniles sentenced to serve more than 30 days of confinement. Echo Glen Children's Center in Snoqualmie serves younger male offenders and female offenders. Green Hill School in Chehalis serves older

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male offenders. Naselle Youth Camp in Naselle provides services to male offenders and offers a forestry work program. Each residential institution provides educational services to juveniles in their care in cooperation with local school districts.

Special Education. Special education is public education provided to children who through an evaluation process are determined eligible due to a disability. Special education serves approximately 130,000 students in Washington. The federal Individuals with Disabilities Education Act (IDEA) provides that schools must guarantee that all children with disabilities between the ages of three and twenty-one must receive a free, appropriate public education. State law requires the Office of the Superintendent of Public Instruction (OSPI) promulgate rules to implement IDEA and ensure appropriate access to general education curriculum and statewide assessments for all students with disabilities. OSPI is required to assist school districts in meeting their legal obligations under IDEA and its implementing regulations.

Procedures for Obtaining Parental Consent for Education Services. Regulations promulgated by OSPI provide procedures for assuring that minors in the state of Washington receive education services that require parental consent. These regulations provide a hierarchy of individuals who may provide parental consent for education:

- a biological or adoptive parent;
- a foster parent;
- a guardian who is generally authorized to act as a minor's parent;
- an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the minor lives, or who is legally responsible for the minor's welfare; or
- a surrogate parent appointed in accordance with state law.

A surrogate parent is a person legally authorized to act on behalf of a person who may act as a parent in absence of the availability of others who can fill the role. School districts are required to ensure that the rights of all students are protected through the designation of a surrogate parent when after reasonable efforts no person who can act as a parent is identified, the minor is a ward of the state, or the minor is an unaccompanied homeless youth. A surrogate parent must be provided within 30 days of a district's determination that a surrogate parent is required.

Summary of Bill: DCYF has a duty to ensure that persons in the custody of a JR facility who are in need of a special education assessment receive a timely assessment as required by state and federal law.

DCYF must ensure that any school district operating within a JR facility that is providing instruction to a student who is in need of a special education assessment makes reasonable efforts to contact a person authorized to act as a parent in order to authorize the special education assessment. If after reasonable efforts the need arises for assignment of a surrogate parent to authorize the special education assessment, such assignment of a surrogate parent must be accomplished within 30 days of the point at which the district or facility determines or reasonably should have determined that assignment of a surrogate is required.

DCYF must review the educational records of all minors receiving instruction within a JR facility to determine whether any students are in need of special education assessments and

assure that they receive them. DCYF must report its findings to the appropriate committees of the Legislature by October 1, 2019.

Appropriation: None.

Fiscal Note: Not requested.

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

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

Staff Summary of Public Testimony: PRO: This bill came from an interim tour at Echo Glen and arose during discussions with staff. There is a challenge getting parental approval for some of the education work because of the complicated interaction of statutes. This bill is late because there was debate as to whether statutory change is needed to get this accomplished.

OTHER: Youth in JR transfer from their home districts into the school district where the facility is located. We support the intent of this bill. Special education policy has been lost with the juvenile justice population. Up to 50 percent of youth that come into JR are in need of special education, and another 30 percent need learning accommodations within the classroom. JR is successful at contacting families within the first 30 days of entry over 90 percent of the time, so there may be a disconnect if the school district is having difficulties. There is a need for collaboration between JR, the affected school districts, and OSPI. Institutional education is specific to the juvenile justice system and is not fully funded as basic education. OSPI formed a workgroup to look at the funding formula and it is demonstrably unconstitutional, as well as the failure of special education monies to flow into the institutions. The funding formulas was not updated during any of the work on *McCleary*. The direction in this bill is accurate and would be a huge help to close the gap for these kids. There is a funding challenge. We are happy to work with OSPI to get the language right. Many of these young people move from institution to institution. We need to articulate a more seamless education experience for these children.

Persons Testifying: PRO: Senator Jeannie Darneille.

OTHER: Kathleen Harvey, JR Community Reentry and Parole Programs; Frank Ordway, DCYF.

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