

Memorandum

To: Juvenile Law Section Members

From: Child and Youth Legislative Advocacy Clinic

Date: June 06, 2011

Re: 2011 Legislative Session Juvenile Law Related Bills

Executive Summary

During the 2011 legislative session, the Washington State Bar Association Juvenile Law Section referred 24 bills to the Child and Youth Legislative Advocacy Clinic for full analysis. Of the referred bills, 4 were related to child welfare/dependency, 13 related to juvenile offenders, 5 related to education/school safety and 2 related to truancy. Of the 24 bills referred, 19 of the bills were “unique” in that they were not substitute versions of previously analyzed bills.

Of the bills analyzed, 4 were passed by the legislature . Of these 4 bills, the Executive Committee voted to support three and take no action on the remaining one. The following summarizes each bill referred by the Juvenile Law Section, the recommended action, the taken action, and the final status of the bill.

Total Bills: 24

- Total Unique Bills (not including “substitutes”): 19

Full Analysis Completed: 24

Passed: 4

Died: 20

Child Welfare/Dependency: 4

Juvenile Offender: 13

Education/School Safety bills: 5

Truancy bills: 2

Child Welfare/Dependency

[HB 1602](#) - An Act relating to the restoration of parent's rights

Sponsor: McCune

Summary: Requires that a parent /guardian has the right to be notified when an unemancipated minor is receiving health care or an invasive medical procedure absent a "no contact order". Removes the right of minors over the age of 13 to consent to outpatient chemical dependency and general outpatient treatment without parental consent. Requires minors who come into contact with an STD to receive parental consent prior to treatment.

Recommended Action: JLS Should oppose the bill.

JLS Action: Unsure of vote

Final Status: Referred to Judiciary

[HB 1680](#) - An Act relating to child abuse investigations and proceedings

Sponsor: Eddy

Summary: Provides that a governmental entity, or its officers, agents, employees, and volunteers, are not liable to alleged perpetrators of abuse or neglect for acts or omissions in the investigation of a report of child abuse or neglect. Provides that the duty to conduct a reasonable investigation of child abuse or neglect runs only to the child who is the subject of the referral and is limited to the duty to act reasonably when making a placement decision. Provides that the state is not liable for actions taken to comply with court orders and that child abuse investigators are entitled to the same witness immunity as other witnesses.

Recommended Action: JLS should support this bill

JLS Action: JLS voted: 3 yes, 3 no, 1 abstention

Final Status: Referred to House Judiciary

[SB 5656](#) - An Act relating to a state Indian child welfare act

Sponsor: Hargrove

Summary: The provisions are substantially similar to those in the federal Indian Child Welfare Act. The state will apply to child custody proceedings, which are defined as proceedings, to determine (1) foster care placement; (2) terminations of parental rights; (3) pre-adoptive placements, which are placements of children after parental rights have been terminated; and (4) adoptive placements.

Recommended Action: JLS should take no action

JLS Action: JLS voted to support

Final Status: Substituted by SSB 5656

[ESSB 5656](#) - An Act relating to a state Indian child welfare act

Sponsor: Hargrove

Summary: Same as original but removes the choice of law provision which formally granted the court a choice of law, such that it shall apply the law (whether through this bill or another state or federal law applicable to the child custody hearing) which provides the highest standard of protection for an Indian child in accordance with the best interest of the child, as long as the higher standard does not conflict with the federal Indian child welfare act.

Recommended Action: No recommendation about future support

JLS Action: JLS voted to support

Final Status: Signed by Governor May 10. Effective 7/22/2011

Juvenile Offenders

[2SHB 1289](#) - An Act relating to juvenile court jurisdiction over offenders

Sponsor: Dickerson

Summary: Eliminates original court jurisdiction for juveniles except for those charged with Murder in the first or second degree. Permits a juvenile, prosecutor or judge to request and set a hearing prior to sentencing in order to determine whether adult court jurisdiction is in the best interest of the juvenile or the public when a juvenile's case is filed in or transferred to adult court.

Recommended Action: JLS should take no action

JLS Action: JLS voted to support

Final Status: Referred to Rules 2 Consideration

[HB 1063](#) - An Act relating to providing juveniles sentences as adults to life without the possibility of parole with meaningful periodic sentencing reviews to be conducted by the indeterminate sentencing review board.

Sponsor: Appleton

Summary: Authorizes the Indeterminate Sentence Review Board (ISRB) to set a release date for persons sentenced to life without the possibility of parole for crimes committed before their eighteenth birthday. This authority does not extend to persons civilly committed as sexually violent predators. All inmates are required to participate in education and/or work programs. Victims who choose to submit a statement to the Board may have the option of having their statement videotaped so that it may be preserved for future hearings.

Recommended Action: JLS should support this bill

JLS Action: JLS voted to support

Final Status: Referred to Public Safety & Emergency Preparedness

[HB 1097](#) - An Act relating to the relief from the duty to register for sex offenses committed when the offender was a juvenile

Sponsor: Appleton

Summary: Revises registration requirements for sex and kidnapping offenses committed by a juvenile. Relieves people from the duty to register for juvenile Class B felonies 5 years after the last date of release from confinement or sentence if the offender has spent 3 consecutive years in the community without a criminal offense. Relieves people from the duty to register for juvenile Class C felonies or gross misdemeanors 3 years after the last date of release from confinement or sentence if the offender has spent 2 years in the community without a criminal offense.

Recommended Action: JLS should take no action

JLS Action: JLS voted to support

Final Status: Referred to Public Safety & Emergency Preparedness

[HB 1289](#) - An Act relating to the juvenile court jurisdiction over offenders

Sponsor: Dickerson

Summary: Eliminates the original court jurisdiction for juveniles charged with certain criminal offenses. A juvenile must have a decline hearing before being transferred to adult court jurisdiction. Permits a juvenile, the prosecutor or the court, at any time prior to sentencing, to request or set a hearing to determine whether adult court jurisdiction is in the best interest of the juvenile or the public.

Recommended Action: JLS should take no action

JLS Action: JLS voted to support

Final Status: Referred to Rules 2 Consideration. Substitute HB 1289 introduced

[HB 1793](#) - An Act relating to restricting access to juvenile records

Sponsor: Darneille

Summary: **HB 1793:** Prohibits a consumer reporting agency from disseminating to a third party information contained in any juvenile record that it has obtained but allows the dissemination of de-identified records for the purposes of social science research, trend data, and generalized aggregation. Provides that a violation of the prohibition against the dissemination of personal information contained in a juvenile record is a violation of the Washington Consumer Protection Act. Requires the Administrative Office of the Courts to convene a work group to develop recommendations that would restrict access to juvenile records and allow records to be sealed without an order from the court; a report is due by December 1, 2011. **Conference Committee**

Report: Prohibits a consumer reporting agency from disseminating to a third party information contained in any juvenile record after an individual's 21st birthday. Dissemination of de-identified information is allowed for the purposes of social science research, trend data, and generalized aggregation. In the event of a full and unconditional pardon of a juvenile offense, the proceeding in question shall be treated as if it never occurred. Creates a legislative work group to develop recommendations that would restrict access to juvenile records and allow records to be sealed without an order from the court.

Recommended Action: JLS should support this bill

JLS Action: JLS voted to support

Final Status: Conference Committee Report adopted. Signed by the Governor May 12. Effective 7/22/2011

- Companion Bill -

[SB 5558](#) - An Act relating to the dissemination of juvenile records by consumer reporting agencies

Sponsor: Hargrove

Summary: Prohibits consumer reporting agencies, that collect personally identifiable information pertaining to juvenile records about an individual residing in the state, from disseminating information contained within the record, including the existence or nonexistence of the record, to any third party. Creates a cause of action under the Consumer Protection Act if an agency violates the law. The cause of action allows for treble damages and/or enforcement by the State Attorney General.

Recommended Action: JLS should support this bill

JLS Action: JLS voted to support

Final Status: Senate Rules "X" file

[SSB 5558](#) - An Act relating to the dissemination of juvenile records by consumer reporting agencies

Sponsor: Hargrove

Summary: Prohibits consumer reporting agencies, that collect personally identifiable information pertaining to juvenile records about an individual residing in the state, from

disseminating information contained within the record, including the existence or nonexistence of the record, to any third party. Prohibits the State from selling juvenile records from the Judicial Information System. The bill does not contain a private cause of action

Recommended Action: JLS should support this bill

JLS Action: JLS voted to support

Final Status: Senate Rules "X" file

[SB 5019](#) - An Act relating to privacy of nonconviction records

Sponsor: Regala

Summary: For both juvenile offender and adult criminal records: Prohibits courts from allowing public access to record information until after charges are filed in court and requires courts to associate all records in a particular case under a single case number. For adult criminal records: requires courts to remove any record information resulting in an exoneration from public access within 30 days after disposition. Prohibits courts and criminal justice agencies from publishing information on the internet that relates to the registration, filing of a petition for, or issuance of a protection order. Courts and criminal justice agencies may share protection order information on a secure record-keeping system not accessible by the public.

Recommended Action: JLS should support this bill

JLS Action: Unsure of vote

Final Status: Referred to Ways and Means

[SB 5204](#) - An Act relating to juveniles who have been adjudicated of a sex offense

Sponsor: Regala

Summary: In order to be removed from the registration system for kidnapping or sex offenses committed when the person in question was a juvenile, the juvenile must show, by a preponderance of the evidence, that she or she is sufficiently rehabilitated to warrant removal. If a person who committed a sex offense as a juvenile is relieved of the duty to register, the records may be sealed in the manner and condition as other offenses. Requires the Superintendent of Public Instruction to publish on its website a model policy for schools to follow regarding enrolled students required to register as sex or kidnapping offenders.

Recommended Action: JLS should take no action

JLS Action: JLS voted to support

Final Status: Substituted by SSB 5204

[SSB 5204](#) - An Act relating to juveniles who have been adjudicated of a sex offense

Sponsor: Regala

Summary: In order to be removed from the registration system for kidnapping or sex offenses committed when the person in question was a juvenile, the juvenile must show, by a preponderance of the evidence, that she or she is sufficiently rehabilitated to warrant removal. If a person who committed a sex offense as a juvenile is relieved of the duty to register, the records may be sealed in the manner and condition as other offenses. A juvenile must spend at least 24 months in the community with no new sex or kidnapping offense before they may petition to be relieved of registration. A juvenile who has been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion may not petition to have his or her records sealed.

Recommended Action: JLS voted to support the original bill.

JLS Action: JLS voted to support

Final Status: Signed by Governor May 12. Effective 7/22/2011

[SB 5313](#) - An Act relating to juvenile firearms and weapons crimes

Sponsor: Kline

Summary: This bill is attempting to strengthen the sentences for youth offenders for offense of unlawful possession of a firearm by (1) increasing the juvenile disposition offense category of Unlawful Possession of a Firearm 1 and 2, (2) removing the possibility of suspended disposition for those offenses, (3) removing the possibility of deferred disposition for Unlawful Possession of a Firearm 2, and (4) removing the possibility of another disposition where the judge finds a manifest injustice.

Recommended Action: JLS should take no action

JLS Action: JLS did NOT vote to support

Final Status: Public hearing in the Senate Committee on Judiciary

[SB 5580](#) - An Act relating to orders of disposition for juveniles

Sponsor: Regala

Summary: Before trial begins, court may waive the 14 day pretrial notice for deferred disposition for good cause. After trial begins, court may waive the 14 day pretrial notice for deferred disposition for good cause but only if the juvenile was originally charged with an offense that was ineligible for deferred disposition, and later was found guilty of an offense that is eligible for deferred disposition. Requires a juvenile who agrees to a deferred disposition to acknowledge the consequences of being found guilty and an order of disposition. gives judges more discretion to vacate and dismiss a conviction when restitution has not yet been paid in full.

Recommended Action: JLS should take no action

JLS Action: JLS voted to support, in part, if amended

Final Status: Senate Rules "X" file

[SSB 5580](#) – An Act relating to orders of disposition for juveniles

Sponsor: Regala

Summary: Before trial begins, court may waive the 14 day pretrial notice for deferred disposition for good cause. Requires a juvenile who agrees to a deferred disposition to acknowledge the consequences of being found guilty and an order of disposition. gives judges more discretion to vacate and dismiss a conviction when restitution has not yet been paid in full. Allows the court to relive a juvenile of the requirement to pay restitution if the court is satisfied the person does not have the ability to pay and could not reasonably acquire the means to pay the restitution over a ten year period but limits this only to restitution only owed to insurance providers.

Recommended Action: JLS should withdraw support

JLS Action: Unsure of vote

Final Status: Senate Rules "X" file

Education – School Safety

[HB 1064](#) - An Act relating to school truancy

Sponsor: Appleton

Summary: Removes the requirement that a school district must file a truancy petition. Requires that schools enter into an attendance agreement with the student after a certain number of absences. Requires courts to verbally notify parents and children of their rights to a contested truancy hearing and no longer allows a warrant for a child's arrest if they fail to attend a hearing unless there is proof that the child was aware of the hearing and had adequate transportation. Courts may order alternatives for a child to encourage better attendance if truancy continues. Requires state patrol to notify affected juvenile offenders of their eligibility for relief as a matter of law.

Recommended Action: JLS should take no action

JLS Action: JLS voted to support, in part, if amended

Final Status: Referred to Judiciary

[HB 1208](#) - An Act relating to requiring notification of sex offenders attending schools

Sponsor: Pearson

Summary: Requires school districts and institutions of higher education to disseminate information when a registered sex offender classified as risk level II or III enrolls in the school. Requires that the student's name, crime of conviction, and sentence be sent to parent, students age 18 and older, and school personnel who may observe or come into contact with the student. Requires sex offenders to provide information to the sheriff regarding the sentence imposed.

Recommended Action: JLS should oppose

JLS Action: JLS did NOT vote to support

Final Status: Public hearing Public Safety & Emergency Preparedness

[HB 1549](#) - An act relating to notification to schools regarding the release of certain offenders

Sponsor: Dahlquist

Summary: Requires at least 30 days' written notice be provided to public and private schools when a juvenile is discharged, released on parole, or other authorized release, or before the juvenile is transferred to a community residential facility, where the juvenile has committed a violent offense, a sex offense or the offense of stalking

Recommended Action: JLS should take no action

JLS Action: Unsure of vote

Final Status: Substitute HB 1549 introduced Passed House, returned to House Rules Committee for third reading

[SB 5428](#) - An act relating to notification to schools regarding the release of certain offenders

Sponsor: McAuliffe

Summary: Identical Companion Bill to HB 1549. Substitute SB 5428 requires that no later than 30 days prior to a youth's release, the Department of Corrections to notify the school district board of directors of the district in which the offender last attended school when the youth (1) is 21 years of age or younger; (2) has been found to have committed a violent offense, sex offense or stalking; and (3) last attended school in this state.

Recommended Action: JLS should take no action

JLS Action: Unsure of vote

Final Status: Substitute SB 5428 Signed by Governor April 18. Effective 7/22/2011

[HB 1893](#) - An Act relating to school safety

Sponsor: Klippert

Summary: Expands authorized searches of students in public schools to include the student's personal effects, desk and motor vehicle. Expands school-related areas where a student may be searched to include school facilities, grounds and any school sponsored or associated activities. Adds "school resource officers" to the list of school officials who may search as student.

Recommended Action: JLS should take no action

JLS Action: Unsure of vote

Final Status: Referred to House Education

Truancy

[HB 1530](#) - An Act relating to limiting governmental responsibilities under provisions of the Becca bill.

Sponsor: Pederson

Summary: Suspends the requirement that school districts file truancy petitions for students with seven unexcused absences in a month or 10 absences in a school year between March 1, 2011 and July 1, 2011

Recommended Action: JLS should support this bill

JLS Action: JLS voted to support

Final Status: Passed to Rules for second reading. Substitute HB 1530 introduced

[SHB 1530](#) - An Act relating to limiting governmental responsibilities under provisions of the Becca bill.

Sponsor: Pederson

Summary: Eliminates the language limiting the original bill to a four month time frame beginning march 1, 2011 and ending July 1, 2011 instead opting for NO durational limitation on the bill. Schools are only required to take action regarding unexcused absences: after one unexcused absence the school must inform the parent/s or guardian/s; after two unexcused absences within the same month the school must request a conference with the parent/s or guardian/s. Schools are no longer required to file truancy petitions for unexcused absences.

Recommended Action: JLS should support this bill

JLS Action: Unsure of vote

Final Status: Passed to Rules for second reading. Substitute HB 1530 introduced