

FINAL BILL REPORT

2SSB 5064

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Synopsis as Enacted

Brief Description: Concerning persons sentenced for offenses committed prior to reaching eighteen years of age.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Kline).

Senate Committee on Law & Justice

Senate Committee on Human Services & Corrections

House Committee on Public Safety

House Committee on Appropriations Subcommittee on General Government & Information Technology

Background: In June 2012 the United States Supreme Court (Court) held, in *Miller v. Alabama*, (10-9646), that the eighth amendment ban on cruel and unusual punishment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile homicide offenders.

The court held when a youth is convicted of murder that occurred before age 18, the sentencing judge must focus directly on the youth and assess the specific age of the individual, the youth's childhood, and the youth's life experience; weigh the degree of responsibility the youth was capable of exercising; and assess the youth's chances of becoming rehabilitated. The judge can only impose a sentence of life without parole if the judge concludes the sentence "proportionally" punishes the youth, given all of the factors that mitigate the youth's guilt. The court reasoned that while it is not foreclosing the judge's ability to sentence a youth to life without parole, appropriate occasions for sentencing juveniles to this harshest penalty will be uncommon.

Under Washington law, aggravated first degree murder occurs when a person commits first degree murder and one or more aggravating circumstances are present such as the victim was a law enforcement officer, firefighter, or other person engaged in official duties; the murder was committed in the course of a robbery, rape, burglary, kidnapping, or arson; or the murder was committed to maintain the person's membership or advancement in a gang. The crime of aggravated first degree murder is punishable by either a sentence of life imprisonment without the possibility of parole or, if sufficient mitigating factors are not present, the death penalty may be imposed. First degree murder, without aggravating factors, is punishable with a term of confinement between 23 and 40 years.

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.

Currently there are 27 individuals serving life sentences in Washington State for aggravated first degree murders committed prior to their 18th birthday.

Summary: A youth who commits aggravated first degree murder must be sentenced to a 25-year minimum sentence if the youth committed the crime before age 16 or a minimum sentence between 25 years and life if the youth committed the crime at age 16 or 17. Life without parole is available within the discretion of the judge for youths who commit aggravated first degree murder at age 16 or 17. In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller vs. Alabama*.

A person who was sentenced prior to June 1, 2014, to a term of life without the possibility of parole for an offense committed prior to their 18th birthday must be returned to the sentencing court or the sentencing court's successor to set a minimum term consistent with the provisions of this act. The Court must provide an opportunity for victims and survivors of victims to present statements.

Any person convicted of one or more crimes committed prior to the person's 18th birthday may petition the Indeterminate Sentence Review Board (ISRB) for early release after serving no less than 20 years of total confinement provided the person has not been convicted for any crime committed after their 18th birthday, the person has not committed a major violation in the 12 months prior to filing the petition for early release, and the current sentence was not imposed under the aggravated first degree murder statute.

During the minimum term of total confinement, the person must not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, any other form of early release, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The Department of Corrections (DOC) must assess a youthful offender five years prior to release and provide programming to prepare the offender for reentry.

No later than 180 days prior to the expiration of the person's minimum sentence, DOC must conduct an examination of the offender to assist in predicting the dangerousness and likelihood that the offender will engage in future criminal behavior if released. The ISRB must order that the person be released unless it is determined by a preponderance of evidence that, despite conditions, it is more likely than not that the person will commit new criminal law violations if released. If the ISRB does not order that the person be released, a new minimum term not to exceed five years must be set for the person prior to future review. During the review of the person's suitability for release, the ISRB must provide an opportunity for the victims and survivors of victims to present statements.

If an offender is released after serving the minimum term of confinement, the offender must be subject to community custody under the supervision of DOC and the authority of the ISRB for a period of time as determined by the ISRB.

The Legislature must convene a task force to examine juvenile sentencing reform. Membership is prescribed, including four legislative members. The task force must

undertake a thorough review of juvenile sentencing as it relates to the intersection of the adult and juvenile sentencing systems, and make recommendations for reform that promote improved outcomes for youth, public safety, and taxpayer resources. The review must include, but is not limited to the following:

- the process and circumstances for transferring a juvenile to adult jurisdiction, including discretionary and mandatory decline hearings and automatic transfer to adult jurisdiction;
- sentencing standards, term lengths, sentencing enhancements, and stacking provisions that apply once a juvenile is transferred to adult jurisdiction; and
- the appropriate custody, treatment, and resources for declined youth who will complete their term of confinement prior to reaching age 21.

The expenses of the task force must be paid jointly by the Senate and the House of Representatives. The task force must report its findings and recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2014.

Votes on Final Passage:

Senate	48	0	
House	74	23	(House amended)
Senate	48	1	(Senate concurred)

Effective: June 1, 2014