

HOUSE BILL REPORT

HB 1743

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

Title: An act relating to confinement in juvenile rehabilitation facilities for juveniles convicted in adult court.

Brief Description: Addressing confinement in juvenile rehabilitation facilities for juveniles convicted in adult court.

Sponsors: Representatives Goodman, Stambaugh, Kagi, Klippert, Kilduff, Dent, Senn, Orwall, Appleton, Jinkins and Frame.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/8/17, 2/10/17 [DPS];
Appropriations: 2/21/17, 2/22/17 [DP2S(w/o sub ELHS)].

Brief Summary of Second Substitute Bill

- Allows juveniles convicted of felony crimes in adult court to be placed in a juvenile correctional facility until age 25.
- Places juveniles convicted of felony crimes in adult court in the custody of the Department of Social and Health Services.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Frame, Goodman, Griffey, Klippert, Lovick, McCaslin, Muri and Ortiz-Self.

Staff: Luke Wickham (786-7146).

Background:

Adult Court Jurisdiction Over Juveniles.

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.

In the State of Washington, juvenile courts are a division of the state's superior court system. Juvenile courts have jurisdiction over persons under the age of 18 who are alleged to have committed a crime. However, there are several exceptions to that jurisdiction where state law requires youth to be tried in adult courts. There are three situations where adult criminal courts may have jurisdiction over persons under age 18:

- The juvenile court declines jurisdiction to adult court following a discretionary decline hearing which a court can initiate on its own motion or any party may file a motion requesting the court transfer the juvenile to adult court.
- The juvenile court is required to hold a decline hearing in circumstances when:
 - the accused person is age 16 or 17 and is alleged to have committed a class A felony or attempt, solicitation, or conspiracy to commit a class A felony;
 - the juvenile is age 17 and is alleged to have committed Assault in the second degree, Extortion in the first degree, Indecent Liberties, Child Molestation in the second degree, Kidnapping in the second degree, or Robbery in the second degree; or
 - the information alleges an escape and the juvenile is serving a minimum juvenile sentence to age 21.
- Adult criminal courts have exclusive jurisdiction over juveniles age 16 or 17 on the date of the offense when the offense is:
 - a serious violent offense;
 - a violent offense and the juvenile has a criminal history consisting of a prior serious violent offense; two or more prior violent offenses; or three or more of any combination of class A felonies, class B felonies, Vehicular Assault, or Manslaughter in the second degree;
 - Robbery in the first degree, Rape of a child in the first degree, or Drive-by Shooting;
 - Burglary in the first degree and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
 - any violent offense and the juvenile is alleged to have been armed with a firearm.

Once a juvenile is declined to adult jurisdiction, he or she will be subject to adult jurisdiction for all future alleged crimes unless the juvenile is found not guilty. If the juvenile is found not guilty of the charge for which he or she was transferred to adult court or is convicted of a lesser offense, the juvenile court will have jurisdiction of the remaining charges in the case.

If a juvenile is age 16 or 17, and he or she is charged with a traffic, fish, boating, or game offense, or an infraction, the case is referred to district or municipal court.

Juvenile Rehabilitation Institutions.

The Department of Social and Health Services (DSHS) operates three juvenile institutions for juveniles convicted of crimes and sentenced to 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 male offenders. Naselle Youth Camp in Naselle provides services to male offenders and offers a forestry work program.

Juveniles convicted of felony crimes in adult court are placed in a Department of Corrections (DOC) facility to determine that child's earned release date. If that earned release date is

before a youth's twenty-first birthday, the DOC shall transfer the youth to a juvenile institution operated by the DSHS. If a child's earned release date is on or after the individual's twenty-first birthday, the DOC shall, with the consent of the DSHS, transfer the individual to a DSHS facility until the individual turns 21, at which time the individual shall be transferred back to the DOC custody.

Summary of Substitute Bill:

Children under the age of 18 who are convicted of felony crimes in adult court and committed to a term of confinement shall be placed in a facility operated by the DSHS. The DSHS is required to consult the DOC prior to releasing an individual who was convicted of a felony in adult court before age 18 to community custody. If the DSHS determines that retaining the individual convicted of a felony in adult court before age 18 presents a significant safety risk to the individual or other individuals, the individual may be transferred to the custody of the DOC. Individuals convicted of felony crimes in adult court before age 18 may remain in a juvenile correctional facility until age 25, or until age 25.5 if there are six months or less remaining on an individual's term of confinement at age 25.

The Washington State Institute for Public Policy must assess the impact of this change on community safety and youth rehabilitation and submit a report to the Governor and Legislature by December 1, 2026.

Substitute Bill Compared to Original Bill:

The Washington State Institute for Public Policy assessment deadline is extended from December 1, 2019, to December 1, 2026.

Appropriation: None.

Fiscal Note: Requested on January 31, 2017.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Maintaining individuals in juvenile facilities makes sense. Many teenagers get in trouble and should be allowed to remain in a juvenile rehabilitation facility so they can get the services they need to ensure reduced recidivism. Sixteen to 24 year olds commit the most crimes of any age group. The DSHS believes that there are only seven youth in the next few years that would have sentences beyond age 21. Oregon has experienced improved recidivism rates after implementing this change. It is very rare that the youth subject to this extended stay in Oregon beyond age 21 are transferred back to the state prisons.

When it comes to adult and juvenile offenders, reducing recidivism should be the focus. There are better recidivism outcomes in the juvenile system. Juveniles tried as adults are more likely to be rearrested. By serving these youth in juvenile facilities, there will be reduced rates of rearrest. There is a rehabilitation model in juvenile institutions that should be provided to youth for a longer time. Youth are still developing their abilities to problem solve into their twenties. These youth are much better served in the juvenile system. There is no need to separate individuals ages 21 through 24 who are served at a juvenile facility from younger individuals. When the Legislature allowed juveniles convicted in adult courts to be served in the Juvenile Rehabilitation Administration up to age 21, there wasn't a change in the number of youth transferred to adult court, so it doesn't seem like this bill will result in an increase in juveniles transferred to adult courts.

(Opposed) None.

(Other) There are different skill sets needed to serve individuals age 21 through 24. This should not be made an unfunded mandate. The proposed closure of Naselle Youth Camp would make this bill very difficult to implement. Juvenile rehabilitation facilities need infrastructure and appropriate staffing.

This bill has the potential to normalize transfer of youth into the adult court system. It is concerning that youth will receive rehabilitative services and then face the stiff consequences of having an adult conviction. There is strong evidence that youth placed in adult facilities have higher rates of reoffense than those served by juvenile facilities. Youth placed in adult facilities are more likely to commit suicide and be assaulted.

Persons Testifying: (In support) Representative Goodman, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; Eric Trupin, University of Washington; and Mary Lou Dickerson, Public Behavioral Health and Justice Policy.

(Other) Matt Zuvich, Washington Federation of State Employees; Nick Allen, Columbia Legal Services; and Alexandra Montano, Washington State Board of Health.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Human Services. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Nealey.

Staff: Kelci Karl-Robinson (786-7116).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Human Services:

The second substitute bill adds a null and void clause and expands the scope of the Washington State Institute for Public Policy assessment of the act to include the impact of racial disproportionality.

Appropriation: None.

Fiscal Note: Requested on February 19, 2017.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill keeps kids in a juvenile facility until they are released or turn age 25. Oregon has been doing this for the last 20 years and they have almost cut their recidivism rates in half. The recidivism rates have been reduced due to investments in mental health care, training, and education so that youth are released with the tools necessary to re-integrate into society. Approximately 5–7 youth per year will turn age 21 and not transition to the Department of Corrections from Juvenile Rehabilitation (JR). Oregon found that the older children were a mentor to the younger children.

(Opposed) None.

(Other) The Youthful Offender Program requires more resources and additional training. The JR system has not recovered since the closure of the Maple Lane School, which changed the dynamics of youth placement within institutions. Washington is not at the point that they could do the same program as Oregon. The caseload projections would require the need for a new living unit in three to four years. The facilities are currently operating at or above funded capacity. Additional resources are necessary. We support keeping young people out of adult jails, but the focus should be on genuine reform to the process that results in young people being sentenced as adults. The cost of this legislation will go down if there is genuine reform, particularly on racial disproportionality.

Persons Testifying: (In support) Melanie Smith, Youth Justice Fund.

(Other) Matt Zuvich, Washington Federation of State Employees; and Hillary Madsen, Columbia Legal Services.

Persons Signed In To Testify But Not Testifying: None.