

HOUSE BILL REPORT

HB 2895

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

Title: An act relating to revising conditions under which a person is subject to exclusive adult jurisdiction and extending juvenile court jurisdiction over serious cases to age twenty-five.

Brief Description: Revising conditions under which a person is subject to exclusive adult jurisdiction and extending juvenile court jurisdiction over serious cases to age twenty-five.

Sponsors: Representatives Frame, Goodman, Kagi, Ortiz-Self, Slatter, Jinkins and Ormsby.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/30/18, 2/2/18 [DPS];
Appropriations: 2/5/18, 2/6/18 [DPS(ELHS)].

Brief Summary of Substitute Bill

- Eliminates exclusive adult court jurisdiction for 16 and 17 year olds charged with Robbery in the first degree; Drive-by Shooting; Burglary in the first degree with one or more prior adjudications, and any violent offense when the juvenile is alleged to have been armed with a firearm.
- Limits discretionary decline hearings to 15 year olds and older that are charged with a serious violent felony and 14 year olds and younger that are charged with Murder in the first or second degree.
- Limits mandatory decline hearings to individuals charged with escape when the respondent is serving a minimum sentence to age 21.
- Creates a new offense category called A++ that includes a range of 129 weeks to 260 weeks of confinement for individuals age 16 or 17 that are adjudicated of Robbery in the first degree, and Drive-by Shooting.
- Extends the maximum period of juvenile court commitment to age 25 for offenders adjudicated of an A++ offense or sentenced to the new 12-month firearm enhancement.

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.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; Eslick, Frame, Goodman, Griffey, Muri and Ortiz-Self.

Minority Report: Do not pass. Signed by 3 members: Representatives McCaslin, Assistant Ranking Minority Member; Klippert and Lovick.

Staff: Luke Wickham (786-7146).

Background:

Adult Court Jurisdiction Over Juveniles.

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 16 or 17 years old, 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 Offender Sentencing.

Juvenile court dispositions are subject to statutory sentencing guidelines.

Juvenile offenses are categorized using letters E through A+ to indicate the seriousness level of the offense with E being the least serious and A+ being the most serious offense category. A statutory grid establishes the standard sentencing range for a particular offense based on the offense category and an individual's prior adjudications. Each prior felony adjudication counts as one point, and each prior violation, misdemeanor, or gross misdemeanor counts as one-fourth point. Fractional points are rounded down.

Local sanctions is the least serious category for juvenile sentencing purposes. Local sanctions include a range of up to 30 days in confinement, up to 12 months of community supervision, up to 150 hours of community service, and up to a \$500 fine. When a juvenile court sentences a juvenile offender to local sanctions, the court must impose a determinate sentence within the standard range. Confinement imposed by a juvenile court up to 30 days is served in a county juvenile detention facility.

Any confinement imposed that is greater than 30 days is served through commitment at a Department of Social and Health Services (DSHS) juvenile rehabilitation facility. The DSHS operates two juvenile rehabilitation institutions: Echo Glen Children's Center and Green Hill School. Echo Glen Children's Center in Snoqualmie is designated for younger male juvenile offenders and female juvenile offenders. Green Hill School in Chehalis is designated for older male juvenile offenders.

Naselle Youth Camp in Naselle is a work camp that offers male offenders a forestry work program in collaboration with the Department of Fish and Wildlife in an aquaculture program and assisting with fighting fires.

If the court concludes that disposition within the standard range would effectuate a manifest injustice, the court must impose a disposition outside the standard range. A court's finding of manifest injustice must be supported by clear and convincing evidence.

A juvenile offender cannot be committed by the juvenile court beyond the offender's twenty-first birthday.

On July 1, 2019, the juvenile rehabilitation functions of the DSHS will transfer to the Department of Children, Youth, and Families.

Suspended Disposition Alternative.

A court may impose a standard range juvenile offender sentence and suspend the disposition on condition that the offender comply with one or more local sanctions and educational or

treatment requirements. An offender is not eligible for a suspended disposition alternative if the offender is:

- adjudicated of an A+ offense;
- 14 years of age or older and is adjudicated of:
 - a class A offense;
 - Manslaughter in the first degree;
 - Assault in the second degree;
 - Extortion in the first degree;
 - Kidnapping in the second degree;
 - Robbery in the second degree;
 - Residential Burglary;
 - Burglary in the second degree;
 - Drive-by Shooting;
 - Vehicular Homicide;
 - Hit and Run death;
 - Intimidating a Witness; or
 - violation of the Uniform Controlled Substances Act; or Manslaughter 2 when the offense includes infliction of bodily harm upon another or when during the commission of the offense the respondent was armed with a deadly weapon.
- ordered to serve a disposition for a firearm violation; or
- adjudicated of a sex offense.

A juvenile offender is subject to a standard range disposition of local sanctions or 13 weeks to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a chemical dependency or mental health disposition alternative.

Violent Offense.

A violent offenses is a category of felony offenses which includes:

- any class A or attempt to commit a class A felony;
- criminal solicitation of or criminal conspiracy to commit a class A felony;
- Manslaughter in the first or second degree;
- Indecent Liberties Committed by Forcible Compulsion;
- Kidnapping in the second degree;
- Arson in the second degree;
- Assault in the second degree;
- Assault of a Child in the second degree;
- Extortion in the first degree;
- Robbery in the second degree;
- Drive-by Shooting;
- Vehicular Assault when caused by the operation or driving of a vehicle by a person under the influence of intoxicating liquor or any drug or by operating a vehicle in a reckless manner; and
- Vehicular Homicide when proximately caused by the driving of any vehicle by a person under the influence of intoxicating liquor or any drug or by operating a vehicle in a reckless manner.

Serious Violent Offense.

A serious violent offense is a category offense which includes:

- Murder in the first degree;
 - Homicide by Abuse;
 - Murder in the second degree;
 - Manslaughter in the first degree;
 - Assault in the first degree;
 - Kidnapping in the first degree;
 - Rape in the first degree;
 - Assault of a Child in the first degree; or
 - an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies.
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Summary of Substitute Bill:

Exclusive adult court jurisdiction is eliminated for 16 and 17 year olds charged with:

- Robbery in the first degree;
- Drive-by Shooting;
- Burglary in the first degree with one or more priors; and
- any violent offense and the juvenile is alleged to have been armed with a firearm.

A new juvenile offender sentencing offense category is created. The new offense category is called A++ and includes a range of 129 weeks to 260 weeks of confinement for individuals age 16 or 17 that are adjudicated of the following offenses:

- Robbery in the first degree; and
- Drive-by Shooting.

Another new juvenile sentencing offense category is created, called B++, which includes a range of 15 weeks to 36 weeks for individuals that have an offender score below one. This category applies to individuals age 14 or under adjudicated of:

- Child Molestation in the first degree;
- Rape in the second degree; and
- Rape of a Child in the first degree.

Burglary in the first degree when committed by an individual age 16 or 17 is moved to the more serious A- offense category.

Eligibility for the suspended disposition alternative is modified to allow eligibility for juveniles age 14 or older adjudicated for Robbery in the second degree, Residential Burglary, Burglary in the second degree, Intimidating a Witness, violation of the Uniform Controlled Substances Act but exclude eligibility for a violation of the Uniform Controlled Substances Act when the offense includes infliction of bodily harm upon another when the respondent was armed with a deadly weapon. Juveniles with a prior suspended disposition alternative are no longer eligible for that disposition alternative.

Eligibility for the chemical dependency or mental health disposition alternative is modified to include individuals subject to a standard range disposition of local sanctions or 15 weeks to 36 weeks of confinement and has not committed a B++ or B+ offense.

Discretionary decline hearings are limited to:

- 15 year olds and older who are charged with a serious violent felony; or
- 14 year olds and younger who are charged with Murder in the first or second degree.

Mandatory decline hearings are limited to individuals charged with escape when the respondent is serving a minimum sentence to age 21.

An additional firearm enhancement for juveniles adjudicated for any violent offense committed by a 16 or 17 year old of 12 months is created.

The maximum period of juvenile court commitment is extended to age 25 for offenders adjudicated of an A++ offense or sentenced to the new 12-month firearm enhancement.

The Washington State Institute for Public Policy is required to conduct a study of the bill with a preliminary report due December 1, 2023, and a final report due December 1, 2027.

Substitute Bill Compared to Original Bill:

The substitute bill restores current law that adult criminal court has exclusive original jurisdiction over juveniles age 16 or 17 at the time of an alleged rape of a child in the first degree offense and makes technical changes.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 2 and 7, relating to modifying statute following the transfer of juvenile justice functions to the Department of Children, Youth, and Families from the DSHS, which take effect July 1, 2019.

Staff Summary of Public Testimony:

(In support) This is an expansive and a compromise bill. Everyone currently signed in to testify is in favor of this bill. The juvenile justice system must hold youth accountable in an age appropriate manner. Youth often feel that they are invincible. Many of our laws today punish children and prevent them from bouncing back. No one is contending that these are not serious crimes. These youth continue to be held accountable under this bill.

Just about everyone involved in this process shares the same goal to allow for rehabilitation of juvenile offenders. The exclusive adult court jurisdiction exacerbates racial disproportionality and undermines the ability for youth reentry.

The length of sentences for some of these A++ sentences are out of line with what youth may receive in adult court. Renaming the new sentencing category is also requested because

many background checks only look at the name of the category to judge the seriousness of an offense, and there is a belief that the offenses in this category should be perceived as more serious than homicide.

This is a significant compromise and balances the need to be humane while maintaining a focus on community safety. Youth are redeemable and are much more amenable to rehabilitation than adults.

This bill is about community safety and accountability. The research shows that individuals tried in juvenile court have better outcomes in terms of community safety and recidivism than those tried in adult court. Fifty-seven percent of the youth tried in the adult system are tried for nonviolent offenses, essentially robbery. All of the evidence points to the need to keep youth accountable.

This is a balanced approach to juvenile justice. By law, juveniles are required to be treated differently. In Pierce County, the Houston-Sconiers case required adult court jurisdiction. The prosecutor agreed to not seek any time on the underlying offense, but because of the weapon enhancements, the court imposed 30 years for one of the cases. The judge and the prosecutor had their hands tied. Something needs to change to allow judges to have more discretion at sentencing.

Juvenile court administrators are prepared to assess the appropriate sentences that take into account a juvenile's unique circumstances. This bill would move Washington from one of six states that provides a prosecutor with the discretion to determine whether adult court jurisdiction will apply.

The age range should be lowered to age 23. A child that takes something and fights back while being apprehended and leaves a bruise on a security guard is an example of Robbery in the first degree.

The provision that restricts the use of exclusive adult jurisdiction to the most serious offenses is supported. The main concern with this bill is that the sentences created are too long. There should be an exception made for individuals without any criminal history. There is also a concern about the maximum age of juvenile court confinement up to age 25. This would make more sense if the juvenile court had jurisdiction over offenses that occurred before age 25.

The question here is whether there are better outcomes with youth under adult court jurisdiction or better rehabilitation in juvenile court. Multiple offenses or a manifest injustice finding would allow for sentences up to age 25.

(Opposed) None.

Persons Testifying: Representative Frame, prime sponsor; Vanessa Hernandez, American Civil Liberties Union of Washington; Mary Lou Dickerson; Eric Trupin, University of Washington Department of Psychiatry and Behavioral Sciences; Frank Cuthbertson and Sean O'Donnell, Superior Court Judges' Association; Kelly Vomacka, Washington Defender Association and Washington Association of Criminal Defense Lawyers; Nick Allen,

Columbia Legal Services; and Todd Dowell, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Early Learning & Human Services be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Haler, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Graves, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

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

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

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

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 2 and 7, relating to modifying statute following the transfer of juvenile justice functions to the Department of Children, Youth, and Families from the DSHS, which take effect July 1, 2019.

Staff Summary of Public Testimony:

(In support) The bill would return juveniles to a rehabilitation system focused on providing youth with skills that increase successful reentry and prevent future incarceration. Research shows that youthful offenders retained by the juvenile system have lower recidivism rates, which improves public safety and reduces costs. Green Hill residents feel strongly that the bill will allow the DSHS to work more effectively at keeping youth from returning to the system. Under current law, youth are housed in Juvenile Rehabilitation (JR) until age 21, so the sentencing changes to Robbery and Drive-by Shooting should have minimal caseload impacts. It is not clear why the fiscal note assumes an increase of 53 beds in JR and only a reduction of 17 beds at the Department of Corrections. We assume the impacts are actually

closer to 16 beds, which Green Hill currently has capacity for. The youth will benefit from JR programming and parole services.

(Opposed) None.

Persons Testifying: Elisabeth Smith, American Civil Liberties Union of Washington; Antonio Ginatta, Columbia Legal Services; Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers; Carolyn Logue, TVW Classroom Connect and Greenhill Correctional Facility; and Tom McBride and Todd Dowell, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.