

---

## Public Safety Committee

---

### 2SSB 5610

**Brief Description:** Concerning the sentencing of persons under the age of twenty-one years at the time of the commission of a crime.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Darneille, Hasegawa and Saldaña).

#### Brief Summary of Second Substitute Bill

- Allows a judge to consider the defendant's age, sophistication, and role in the crime as a mitigating factor when sentencing a minor in adult court.
- Allows a judge to impose certain sentencing enhancements concurrently when sentencing a minor in adult court.

**Hearing Date:** 2/15/18

**Staff:** Kelly Leonard (786-7147).

#### **Background:**

##### Minors in Adult Court.

While juvenile courts generally have jurisdiction over persons under the age of 18 (minors), certain cases involving minors can be transferred or otherwise filed in adult criminal court. A prosecuting attorney may petition the juvenile court for a discretionary transfer to adult court, and in some cases, statute mandates transfer to adult court based on the nature of the alleged offense. If a minor is convicted of a crime in adult court, he or she is not subjected to juvenile sentencing standards. Instead, general sentencing laws apply to the case.

##### Sentencing.

Felony crimes are classified as A, B, or C. The classification generally determines the maximum term of confinement. However, the Sentencing Reform Act (SRA) controls the actual term of confinement within the prescribed maximum. The SRA is a determinate sentencing system where a judge selects a particular sentence from a standard range. The standard range is

---

*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.*

determined by reference to a statutory grid, which is based on the defendant's criminal history and the severity of the offense. The grid provides the base sentence, but additional sentencing policies can increase or decrease the base sentence. This includes, for example, exceptional sentences, enhancements and alternative sentences.

#### Exceptional Sentences.

In a typical felony case, the standard range is presumed to be appropriate. However, the SRA allows the court to impose a sentence outside the standard range for substantial and compelling reasons. An exceptional sentence may either be below the standard range (with a mitigating circumstance) or above the standard range (with an aggravating circumstance). While aggravating circumstances must be proven before a jury, a judge retains the discretion to adjust a sentence downward based on mitigating circumstances. The SRA provides a non-exhaustive list of mitigating circumstances upon which an exceptional sentence may be based.

#### Sentencing Enhancements.

A sentencing enhancement is a statutory mechanism to increase a term of confinement when an offense involves certain conduct. An enhancement adds a specified number of months to an offender's base sentence. An offender may be convicted of multiple enhancements. Depending on the type of enhancement, multiple enhancements are required to be served consecutively or concurrently. Consecutive enhancements stack onto one another, while concurrent enhancements are served simultaneously.

Certain enhancements can run consecutively to other enhancements of the same type, enhancements of a different type, or both. Alternatively, some enhancements always run concurrently to other enhancements of the same or different type.

#### Recent Supreme Court Decision.

In *State v. Houston-Sconiers*, 188 Wn.2d 1 (2017), the Washington Supreme Court held that when sentencing minors in adult court, the sentencing court has full discretion to consider the defendant's age as a basis for departing downward from the standard range and reducing otherwise mandatory sentencing enhancements.

### **Summary of Bill:**

#### Exceptional Sentences.

When a minor is sentenced in adult court, a judge may consider the defendant's age, sophistication, and role in the crime as a mitigating factor, allowing an exceptional sentence below the standard range for the crime.

#### Sentencing Enhancements.

For a minor sentenced in adult court, the court may order certain enhancements to be served concurrently if serving those enhancements consecutively would result in a clearly excessive sentence. The discretion applies to the following:

- firearm and deadly weapon enhancements (six months to 10 years);
- vehicular homicide with a prior driving under the influence conviction enhancement (24 months);
- sexual motivation enhancement (12 months to four years);
- drug offense in protected zone enhancement (24 months);

- manufacturing methamphetamine in front of a child enhancement (24 months); and
- impaired driving offense committed with a child passenger under the age of 16 years enhancement (12 months).

**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2018.

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